

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE AT CHENNAI

Appeal No... 54of 2021 [SZ]

BETWEEN

IN THE MATTER OF:

THOMAS LAWRENCE.....Appellant

Versus

SEIAA and others.....Respondent(s)

I N D E X

S. No.	DATE	DETAILS	Pg. No.
1	20-09-2021	Reply Statement of respondents 4 to 6.	1 to 7
2	21-04-2018	<u>Annexure.R.4 (A)</u> . True scanned office copy of the application Form-I and IA along with the covering letter of this respondent submitted by the 4th respondent	8 to 40
3	28-12-2018	<u>Annexure.R.4 (B)</u> True scanned office copy of the application Form-I and IA along with the covering letter of this respondent submitted by the 4th respondent	41-82
4		<u>Annexure.R.4 (C)</u> True copy of the judgment reported in Matha Nagar Residents Association Vs. District Collector, reported in 2020 (2) KLT 192	82-102
5		<u>Annexure.R.4 (D)</u> True copy of the judgment reported as Suraj KS vs. State of Kerala , 2018 (1) KHC 250	103-114
6.		<u>Annexure.R.4 (E)</u> . True copy of the judgment in Jal Mahal Resorts Private Limited v. K. P. Sharma And Others, reported in 2014 (8) SCC 804	115-179

Certified that the above documents are true copies of their originals

Dated at Ernakulam on this the 21st October , 2021



COUNSEL FOR THE RESPONDENTS 4 to 6

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTH ZONE AT CHENNAI

Appeal No...5 4....of 2021 [SZ]

BETWEEN

IN THE MATTER OF:

Thomas LawrenceAppellant (s)

Versus

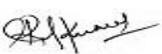
State Environment Impact Assessment Authority

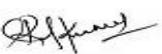
Through its Chairman, Kerala and Ors..... Respondent(s)

The Address for service of notice of the respondents 5 to 6 is M/s. P.B.Sahasranaman, and S.Sai Sathya Jith, Advocates, No.28/22, Menod Street, Chennai-600 007.

REPLY STATEMENT FILED BY THE RESPONDENTS 4 to 6

1. All facts and averments contained in the copy of the Memorandum of Appeal filed by the appellant is denied except those that are specifically admitted hereunder.
2. The main allegations levelled by the pertains to the apprehension of destruction of wetlands of Kerala, especially **Veli-Akkulam wetlands**, the name which is the creation of the appellant. The appeal memorandum has stated distorted versions of facts and the law on the subject and the documents produced are wrongly described. In order to understand the disputes, it is very much essential to understand the law intended for the protection of wetlands the subject prevailing in India. It seems that the appellant does not know the difference between fallow land and wetland.
3. First of all, it is submitted that the 5th respondent is not a necessary party in this appeal. None of the land in possession of this 5th respondent are matters of concern in the said Environmental Clearance dated 06-03-2021. The 5th respondent is unnecessary dragged by the appellant without any sufficient reasons. The appellant has conducted a complete vilification of facts while filing this appeal.


 Respondents 4.

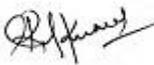

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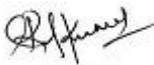

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4. The 4th respondent has applied for an EC for the construction of a building having an extent of 1,33,491 Sqm, 21-04-2018 to the 2nd respondent for the reason that the 1st respondent was not functioning at the relevant time. The 2nd respondent by order dated 7th June 2019 based on recommendation of EAC Meeting on 2-3 July 2018 has allowed the said application and granted clearance. A true scanned office copy of the said application Form-I and IA along with the covering letter of this respondent, dated 21-04-2018 submitted by the 4th respondent is produced herewith and marked as **Annexure.R.4 (A)**.
5. Thereafter an application for expansion was made on 28-12-2018 to the 1st respondent. It was submitted to the 1st respondent for the reason that at the relevant time, the 1st respondent has come into existence at the relevant time. A true scanned office copy of the said application Form-I and IA along with the covering letter of this respondent, dated 28-12-2018 submitted by the 4th respondent is produced herewith and marked as **Annexure.R.4 (B)**.
6. It is respectfully submitted that as per EIA Notification, dated 14th September, 2006 the 1st respondent is the designated authority to consider the application for EC in respect of township and area development projects under Category B -8(b) for Area >1,50,000 sq mts. As the Expansion Project area was 1,37, 673 sq mts and the cumulative Area was 2,71,164.4 Sqm ,the 1st Respondent has got the authority to consider the application and issued environmental clearance. These facts were deliberately mixed up in the application to mislead this Hon'ble Tribunal..
7. The need to protect the wetlands has been first considered in the Ramsar Convention held in Iran in 1971, where India has signed treaty on Wetlands. The Government of India is thus committed to protect wetlands in India framed the National Environment Policy, 2006, It recognised the ecosystem services provided by wetlands and emphasizes the need to set up a regulatory mechanism for all wetlands so as to maintain their ecological character, and ultimately support their integrated management. Thereafter the Central Government has published the Wetlands (Conservation and Management) Rules, 2010, vide number G.S.R. 951(E), dated the 4th December, 2010 invoking the powers under the Environment (Protection)


 Respondents 4.

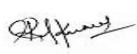

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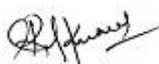


8. Act, 1986. The term “wetland” has been given a wide definition of lands as per Rule 2 (g). Rule 3 of the said Rules protected the wetlands which are categorised under the Ramsar Convention as per the Schedule. As per Rule 3 (vi) any other wetland as so identified by the Wetland Authority and thereafter to notified by the Central Government as per Act. In so far Kerala is concerned the Schedule only contains *Ashtamudi* and *Sasthamkotta* wetlands which are identified as Ramsar sites. No other wetlands are identified and notified by the Government of Kerala.
9. But the said 2010 rules were found to be ineffective and the Central Government has issued the Wetlands (Conservation and Management) Rules, 2017 which came to force with effect from 26th September, 2017, which supersedes 2010 rules. As per Rule 3 it applies only those ‘wetlands of international importance’ under the Ramsar Convention and wetlands notified by Central Government, State Government and Union Territory Administration. These rules shall not apply to the wetlands falling in areas covered under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the State Forest Acts and the Coastal Regulation Zone Notification, 2011 as amended from time to time. It is respectfully submitted that the land which is the subject matter of this appeal is not declared as wetland under any of the said Rules.
10. In so far as Kerala is concerned the Kerala Conservation of Paddy Land and Wetland Act, 2008 has been framed to conserve the paddy land and wetland and to restrict the conversion or reclamation thereof, in order to promote growth in the agricultural sector and to sustain the ecological system, in the State of Kerala. The said Act 20 of 2008 came into force with effect from 11-08-2008. The preamble to the said Act states that Kerala has a total wetland area of 1,27,930 hectares, out of which an area of 34200 ha is in the “inland wetland” and the remaining 93720 hectares are “coastal wetland’. As per Sec. 5 (4) (i) of the Act the Local Level Monitoring Committee has to prepare a “data bank” with the details of the cultivable paddy land and wetland. Sec. 11 of the Act prohibits from 12-08-2008 a total prohibition on reclamation of such wetland and removal of sand therefrom. The provisions of the said Act have been interpreted by the Kerala High Court as well as Supreme Court in several cases.

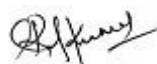
Respondents 4.   5.   6.  

11. Kerala High Court in the decision reported as *Matha Nagar Residents Association Vs. District Collector*, reported in 2020 (2) KLT 192, has held that going by the definition of wetland in order to treat a particular land as wetland, it should have the characteristic features and requirement as is provided under Act, 2008. Fallow land is never treated as wetland in accordance with the provisions of Act, 2008. It is also significant to note that from the definition of wetland under Act, 2008, paddy land and rivers are excluded. Merely because the property is lying fallow and water gets logged during rainy season or otherwise due to the low lying nature of the property, it cannot be termed as wetland or paddy land in contemplation of Act, 2008. A true copy of the said judgment reported in *Matha Nagar Residents Association Vs. District Collector*, reported in 2020 (2) KLT 192 is produced herewith and marked as **Annexure.R.4 (C)**.
12. In another case reported as *Suraj KS vs. State*, 2018 (1) KLT 1, the Kerala High Court has held that the said Paddy Act does not contemplate inclusion of any land which is not shown as wetland in the revenue records, as wetland in the Data Bank to be prepared under the Act. A true copy of the said judgment reported as *Suraj KS vs. State of Kerala*, 2018 (1) KHC 250 is produced herewith and marked as **Annexure.R.4 (D)** for easy reference.
13. In this regard it is profitable to note that decision reported as *M.K.Balakrishnan vs Union of India*, (2017) 7 SCC 805 also states about identified wetlands. The Court directed that the application of the principles of R.4 of the Wetlands (Conservation and Management) Rules, 2010 is limited to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorise all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of R.4 of the Wetlands (Conservation and Management) Rules, 2010. It is most respectfully submitted that the lands in question were not identified as wetlands by any of the said legislations.

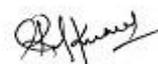
Respondents 4.




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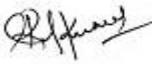
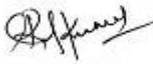
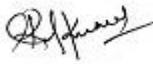



6.




respondents 5 to 6 falls between the fully functional Technopark Phase I and Technopark Phase II land. Thus, it is evident that the Project contemplated by the Project Proponents on the Technopark Phase III Site is not on Wetlands nor was there any threat to the ecosystem at the Technopark Phase III Site, which includes Project of the Project Proponents.

17. It is respectfully submitted that none of the grounds are valid and sustainable. The appellant is not entitled to any of the reliefs asked for. In these circumstances it is prayed that the appeal filed by the appellant be dismissed with the compensatory costs to these respondents.

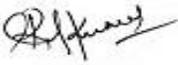
Respondents 4.  5.  6. 
  

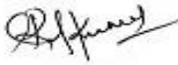
Counsel for the Respondents 4 to 6 

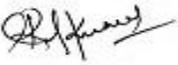
VERIFICATION

I, R.ANIL KUMAR, aged 57 years, son of Late V.Ramakrishnan, Authorised Officer, (1) DRAGONSTONE REALTY PVT. LTD 5A3, Artech City Kalyani Vazhuthacaud, Thycaud, Thiruvananthapuram – 695014 (2) WINTERFELL REALTY PVT. LTD, Bhub, Cardinal Cleemis Centre for Innovations, TC No. 11/2402-3, Mar Ivanos Vidya Nagar, Nalanchira Thiruvananthapuram – 695015 and (3) DORNE REALTY PVT. LTD.5A3, Artech City Kalyani Vazhuthacaud, Thycaud, Thiruvananthapuram – 695014, Respondents 4 to 6, do hereby verify that the contents of paras 1 to 17 are true to our personal knowledge belief and that we have not suppressed any material fact.

Dated at Ernakulam on this the 21st day of October, 2021


 Respondents 4.


 5.


 6.







Counsel for the Respondents No. 4 to 6



Dragonstone Realty Private Limited
Registered Office: 5A3, Artech City Kalyani
Vazhuthacaud, Thycaud P.O., Trivandrum
India

P: +1-617-778-7927

E: contact@downtowntp.com

W: www.downtowntp.com

CIN: U45201KL2015FTC038988

Annexure.R.4 (A)

The Director,
I.A. Division – III,
Ministry of Environment, Forests & Climate Change,
Indira Paryavaran Bhavan,
Jor Bagh Road, New Delhi – 110 003.

Dt. 21-04-2018

Sub.:-Environmental Clearance – Proposed Commercial cum Office Complex project at Technopark Phase-3 Campus in (Non-SEZ plot) Sy. Nos. 290/2(part), 290/3(part) & others, Village Attipra, Taluk & District Thiruvananthapuram, Kerala – Application – Reg.

Respected Sir,

We propose to construct a commercial cum office complex project at Technopark Phase-3 Campus in Sy. Nos. 290/2(part), 290/3(part) & others, Village Attipra, Taluk & District Thiruvananthapuram, Kerala. Attached herewith are the following documents for obtaining the Environmental Clearance **since the tenure of SEIAA/SEAC, Kerala expired on 18-03-2018 and there is no duly constituted SEIAA/SEAC, Kerala now.** The documents are:-

1. Duly filled Form – 1 (Appendix I)
2. Duly filled Form – 1A (Appendix II)
3. Conceptual Plan

In view of the above submissions, we humbly request you to consider our application at MoEF and accord Environmental Clearance to our project at the earliest.

Thanking you,
Yours respectfully,
For Dragonstone Realty Pvt. Ltd.

(Managing Director)

Encl. :- As Above

APPENDIX I

(See paragraph – 6)

FORM 1

(I) Basic Information

Sr. No.	Item	Details
1.	Name of the project/s	Environmental Clearance for Proposed Construction of Commercial cum Office Complex Project by M/s Dragonstone Realty Pvt. Ltd.
2.	S. No. in the schedule	8 (a), Construction Project with built-up area 1,33,491 sq.m. which is more than 20,000 sq. m. and less than 1,50,000 sq. m.
3.	Proposed capacity / area / length / tonnage to be handled/command area/lease area/ number of wells to be drilled	Total Plot Area = 3.9375 ha. Total Built-up Area = 1,33,491 sq. m.
4.	New/Expansion/Modernization	New
5.	Existing capacity/area etc.,	N.A.
6.	Category of Project i.e. 'A' or 'B'	Category 'B'
7.	Does it attract the general condition? If yes, please specify	NO
8.	Does it attract the specific condition? If yes, please specify	NO
9.	Location	Technopark Phase-3 Campus in Sy. Nos. 290/2(part), 290/3(part), 290/4(part), 290/5(part), 290/6(part), 290/7(part), 291/2(part), 291/3(part), 291/4, 291/5, 291/6, 291/7, 291/8, 291/9, 291/10(part), 291/11(part), 291/12, 291/13, 291/14, 291/15, 291/16, 291/17, 292/1, 292/2, 292/3, 292/4(part), 292/5(part), 292/6(part), 292/7(part), 292/8(part), 292/9(part), 292/10, 292/11(part), 295/1(part), 295/2 (part), 295/3 (part), 295/10 (part), 295/11 (part), 295/12, 295/13, 295/14, 295/15, 295/16, 295/17 (part), 296/1 (part), 296/2 (part), 296/5 (part), 296/6, 296/7, 296/8 to 296/19, 297/8 (part), 297/16 (part), 297/18 (part), 297/19], Village Attipra, Taluk & District Thiruvananthapuram, Kerala
	Plot/Survey/Khasra No.	Sy. Nos. 290/2(part), 290/3(part), 290/4(part), 290/5(part), 290/6(part), 290/7(part), 291/2(part), 291/3(part), 291/4, 291/5, 291/6, 291/7, 291/8, 291/9, 291/10(part), 291/11(part), 291/12, 291/13, 291/14, 291/15, 291/16, 291/17, 292/1, 292/2, 292/3, 292/4(part), 292/5(part), 292/6(part), 292/7(part), 292/8(part), 292/9(part), 292/10, 292/11(part), 295/1(part), 295/2 (part), 295/3 (part),

		295/10 (part), 295/11 (part), 295/12, 295/13, 295/14, 295/15, 295/16, 295/17 (part), 296/1 (part), 296/2 (part), 296/5 (part), 296/6, 296/7, 296/8 to 296/19, 297/8 (part), 297/16 (part), 297/18 (part), 297/19],
	Village	Attipra
	Tehsil	Thiruvananthapuram
	District	Thiruvananthapuram
	State	Kerala
10.	Nearest railway station/airport along with distance in Kms	The nearest railway station (Kazhakkootam Railway Station) is about 2.5 km. (W) and Trivandrum International Airport is about 10 km. (SE) away from the project site.
11.	Nearest Town, city, District Headquarters along with distance in Kms	Town/City – Project site is within the Trivandrum city limits District Headquarters - Kudappanakunnu, Thiruvananthapuram, at about 14 km.(E)
12.	Village Panchayats, Zilla Parishad, Municipal Corporation, Local body (complete postal addresses with telephone nos. to be given)	<u>Village Office Address :-</u> Attipara Village Office, Sreekariyam Kazhakuttam Road, Manvila Industrial Estate, Manvila, Thiruvananthapuram, Kerala-695011. Contact No. 0854610129. <u>Municipal Corporation Office Address :-</u> Zonal Office of Municipal Corporation of Thiruvananthapuram, Kachani Aruvikkara Rd, Vattiyookavu, Nettayam, Thiruvananthapuram, Kerala- 695013. Ph. 0471 - 2320821.
13.	Name of the applicant	M/s Dragonstone Realty Pvt. Ltd.
14.	Registered Address	M/s Dragonstone Realty Pvt. Ltd. 5A3, Artech City Kalyani, Vazhuthacaud, Thycaud P.O., Trivandrum, Kerala.
	Address for correspondence :	M/s Dragonstone Realty Pvt. Ltd. 9, Belhaven Gardens, Kowdiar, Thiruvananthapuram, Kerala-695003.
	Name	Mr. Ajay Prasad
	Designation (Owner/Partner/CEO)	Managing Director & Authorized Signatory
	Address	M/s Dragonstone Realty Pvt. Ltd. 9, Belhaven Gardens, Kowdiar, Thiruvananthapuram, Kerala-695003.
	Pin Code	Kerala-695003.
	E-Mail	binu@synergyind.com & aprasad@tiholdings.com
	Telephone No.	09747210101
	Fax No.	N.A.
16.	Details of Alternative Sites examined, if any. Location of these sites should be shown on a topo sheet	Not Applicable Village-District-State 1. 2.
17.	Interlinked Projects	Not applicable
18.	Whether separate application of interlinked projects has been	Not applicable

	submitted?	
19	If yes, date of submission	Not applicable
20	If no, reason	Not applicable
21	Whether the proposal involves approval/clearance under: If yes, details of the same and their status to be given. (a) The Forest (Conservation) Act, 1980? (b) The Wildlife (Protection) Act, 1972? (c) The C.R.Z Notification, 2011 ?	NO NO NO
22	Whether there is any Government Order/Policy relevant/relating to the site?	NO
23	Forest land involved (hectares)	NO
24	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders/directions of the Court, if any and its relevance with the proposed project.	NO

(II)Activity**1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.)**

Sr. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)	Yes	<p>There will be permanent change in land use, land cover or topography including increase in intensity of land use.</p> <p>The proposed building is located within the existing Technopark campus Phase-3 campus at Attipra Village, Thiruvananthapuram District.</p> <p>During construction phase, about 150 workers (daily average) will be at site. During operation phase on full occupancy of proposed complex, the maximum population expected is 10,913 persons (floating population) and hence there is increase in the intensity of land use. (Source: population is calculated based on NBC).</p>
1.2	Clearance of existing land,	Yes	For the development of the proposed



	vegetation and buildings?		project, the existing trees & different varieties of shrubs, herbs, grass & climbers will be cleared.
1.3	Creation of new land uses?	Yes	The new land use will be for commercial cum office complex project.
1.4	Pre-construction investigations e.g. bore houses, soil testing?	Yes	Pre-construction Soil Investigation has been carried out for the site. As per the soil investigation report the ground water level encountered about 1.5 m. below the existing ground level.
1.5	Construction works?	Yes	Construction of commercial cum office complex project. Internal roads for movement inside the complex will be constructed.
1.6	Demolition works?	No	Not applicable
1.7	Temporary sites used for construction works or housing of construction workers?	Yes	Temporary sheds constructed for housing of construction workers (about 150 persons).
1.8	Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations	Yes	It is proposed to construct commercial cum office buildings. Excavation of earthwork for the foundation of structures will be carried out. The top soil which is fertile will be kept at site for landscaping work. The excavated soil will be used for back filling work site leveling and remaining for internal road construction purposes.
1.9	Underground works including mining or tunneling?	Yes	No underground works including mining / tunneling required except the foundation work for the structures.
1.10	Reclamation works?	No	Not applicable
1.11	Dredging?	No	No dredging work required.
1.12	Offshore structures?	No	No offshore structure required.
1.13	Production and manufacturing processes?	No	No production / manufacturing process involved.
1.14	Facilities for storage of goods or materials?	Yes	Separate raw material store of cement and other construction materials is made within the project premises. Bricks and steel laid in open.
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?	Yes	Construction phase :- Solid waste generation from the project during construction phase will be about 60 Kg/day and domestic sewage will be about 9 KL/day. The non-biodegradable waste and other packaging material will be sold to the vendors. The bio-degradable solid waste will be disposed in a bio-bin system for microbial composting and a mobile STP for the treatment of domestic sewage from the labour

		<p>colony.</p> <p>Operation phase :- SOLID WASTE</p> <ul style="list-style-type: none"> ✓ The proposed project will generate about 1,612 Kg/day. ✓ The Solid Waste Management Rules, 2016 will be followed in the Solid Waste Disposal Mechanism at the site during operation phase. ✓ Collection & segregation within the site (bio-degradable waste (green bins), non-biodegradable waste (blue bins) and domestic hazardous waste (yellow bins). ✓ The recyclable waste like packaging material, paper etc. would be sold through. ✓ The Bio-degradable waste would be disposed through the bio-gas generation units to be installed within the site. ✓ The bio-gas generated will be utilized in the canteen / kitchen area and the manure generated will be utilized for green area development within the premises. <p>e-Waste :-</p> <ul style="list-style-type: none"> ✓ Discarded computer parts, monitor, key boards etc. constitutes e-waste and this waste will be stored in an earmarked area. ✓ E-waste will be generated after 4-5 years latency period ✓ Separate earmarked space will be provided for e-waste storage. ✓ E-waste will be disposed as per E Waste (Management & Handling) Rules. <p>HAZARDOUS WASTE</p> <ul style="list-style-type: none"> ✓ As per Hazardous Waste (Management & Handling Rules), the hazardous waste i.e., the used oil from D.G. sets, discarded oil filters and discarded batteries and stored separately and will be disposed to CPCB / SPCB authorized vendors only. ✓ M/s Pefect Alloys, Chengannur, M/s Peejay Enterprises, Thiruvalla, M/s Excel Petrochemicals, Kochi and M/s Cee Jee Lubricants, Aluva are the approved recyclers for discarded batteries & used oil located in Kerala. <p>Also, domestic hazardous waste would be generated like discarded paint</p>
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			<p>drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles and syringes and contaminated gauge etc. generated at the household level.</p> <p>Effluent :- The domestic sewage about 256 KL/day will be generated which will be treated through proposed Sewage Treatment Plant to be installed within the project premises.</p>
1.16	Facilities for long term housing of operational workers?	No	The proposed construction of I.T. Office building project and therefore no accommodation facility is proposed for the operational workers.
1.17	New road, rail or sea traffic during construction or operation?	No	Not applicable
1.18	New road, rail, air waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc?	No	Not applicable
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?	No	Not applicable
1.20	New or diverted transmission lines or pipelines?	Yes	There is a HT line passing over the project site (north-west side). Therefore, appropriate setbacks (horizontal / vertical) from the proposed buildings are provided as per KSEB norms.
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?	No	Not applicable
1.22	Stream crossings?	No	Not applicable
1.23	Abstraction or transfers of water form ground or surface waters?	Yes	Well water would be used as source of water (if required) (only emergency purposes).
1.24	Changes in water bodies or the land surface affecting drainage or run-off?	No	There is a drain flowing in the east side of the property boundary. During the construction & operation phase this drain will be protected.
1.25	Transport of personnel or materials for construction, operation or decommissioning?	Yes	Transportation of personnel / material during the construction and operation phase is envisaged. In the construction phase, approx. 12-15 trucks / day is envisaged for transportation of materials.
1.26	Long-term dismantling or decommissioning or restoration works?	No	Not applicable
1.27	Ongoing activity during decommissioning which could have an impact on the	No	Not applicable



	environment?		
1.28	Influx of people to an area in either temporarily or permanently?	Yes	The proposed project is construction of commercial cum office building project and the proposed project would provide job facilities for about 3,471 persons (office staff, Shopping staff & housekeeping / security etc. staff) in the operation phase and about 150 nos. of labourers (skilled / unskilled) during construction phase. Further, on full occupancy of the project, the maximum population expected is 14,384 Persons (floating population) and hence there will be influx of people to the project area.
1.29	Introduction of alien species?	No	Not applicable
1.30	Loss of native species or genetic diversity?	Yes	Due to the proposed development, some of the existing trees will be cut from the proposed site. As part of the eco restoration, large number of saplings of native species would be planted. Due to the eco restoration, the impact to floral and faunal ecology will be short term.
1.31	Any other actions?	None	Nil

2. Use of Natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are non-renewable or in short supply):

S. No.	Information/checklist confirmation	Yes / No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)	Yes	Plot area of 3.9375 ha. is a undeveloped land with some of native species of shrubs, herbs, grass & climbers at site. The proposed land is reserved for development of shopping cum office complex project.
2.2	Water (expected source & competing users) unit: KLD	Yes	<p>Construction phase :- The water consumption during construction phase is for meeting the domestic requirement (11 KLD) of the construction labourers and for construction purposes water requirement (30 KLD). The source of water will be from stored rain water, well water & Technopark / KWA (Public supply).</p> <p>Operation phase :- The total daily domestic water consumption for the proposed</p>

			<p>project would be about 320 KLD (which includes fresh water requirement of about 174 KLD) (taken @ 45 LPCD for staffs and 15 LPCD for visitors). The sources of water during operation phase for the proposed project are: -</p> <ol style="list-style-type: none"> 1. Roof Rain Water (concurrent use) (Rainy Days) (Non-Flushing Req.), 2. Stored Rain Water & Technopark / KWA water supply / Well water (Non-Rainy days) (Non-Flushing Req.) 3. Treated waste water from STP (Flushing, horticulture & HVAC Req.) (Entire Year). <p>The details regarding the water consumption related items are provided at daily water balance chart and daily water consumption chart attached.</p>
2.3	Minerals (MT)	No	Not applicable
2.4	Construction material – stone, aggregates, sand / soil (expected source – MT)	Yes	<p>Steel : 55,440 MT M-Sand: 95,840 cu.m. Cement Blocks : 1,65,507 cu.m. Cement : 2,90,798 Bags</p> <p>The construction materials would be brought from local suppliers available in the area.</p>
2.5	Forests and timber (source – MT)	Yes	Wood shall be used for frame of doors however recyclable wood shall be used for doors.
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)	Yes	<p>Total Power Req. : about 8,493 kW Power Source: Kerala State Electricity Board. Total capacity of D.G. Sets proposed (2,000 kVA x 4 nos.) (Standby power back up arrangement) Fuel – HSD</p>
2.7	Any other natural resources (use appropriate standard units)	No	Not applicable

3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health.

S. N.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and water supplies)	No	This is an commercial cum office building project and no storage of hazardous chemicals (as per MSIHC Rules) will be done, apart from diesel storage for D.G. Sets which

			will be operated only during emergency and suitable arrangement will be adopted for the same. It will be stored in HDPE drums and kept in covered rooms under lock and key.
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)	No	Suitable drainage and waste management measures will be adopted in both the construction and operation phase which will restrict stagnation of water or accumulation of water within the site & the surroundings. This will effectively restrict the reproduction and growth of disease vectors. Further, appropriate sanitation facility will be provided at site during construction phase & operation phase. Good house keeping and hygienic measures will be followed during construction and operation phase to avoid any cause which can lead to occurrence of disease.
3.3	Affect the welfare of people e.g. by changing living conditions?	Yes	The proposed project is commercial cum office building project and thereby the standard of living index of the people around the project site will definitely improve. Also there will be various ancillary activities like convenient shops, transport facilities etc. attached to the project which will benefit the local people and change their living condition.
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,	No	Not applicable. There is no storage of any material within the site which will affect the vulnerable groups of people.
3.5	Any other causes	None	Nil

4. Production of solid wastes during construction or operation or decommissioning (MT/month)

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Spoil, overburden or mine wastes	No	No such spoil over burden or mine waste will be generated. The construction debris will be used for back filling purposes.
4.2	Municipal waste (domestic and or commercial wastes)	Yes	There will be about 60 kg of municipal solid waste during construction phase. The total Municipal solid waste to be generated from the proposed

			project would be about 1,612 kg/day on full occupancy during operation phase.
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)	Yes	The oil used in the D.G. sets (as a standby source of power) after certain of hours of operation, needs to be changed. This used oil from the D.G. Sets will be sold to the CPCB approved recyclers. The list of authorized recyclers are M/s Perfect Alloys, Chengannur, M/s Peejay Enterprises, Thiruvalla, M/s Excel Petrochemicals, Kochi & M/s Cee Jee Lubricants, Aluva are the approved recyclers for discarded batteries & used oil located in Kerala. Used oil will be stored in HDPE drums in isolated covered facility.
4.4	Other industrial process wastes	No	Not applicable
4.5	Surplus product	No	Not applicable
4.6	Sewage sludge or other sludge from effluent treatment	Yes	The sludge from S.T.P. will be partially recycled for enhancing biological treatment and the excess sludge will be sent to the filter press and the de-canted sludge will be used as manure in green area during operation phase.
4.7	Construction or demolition wastes	Yes	Construction waste will be used for back filling purposes.
4.8	Redundant machinery or equipment	No	Not applicable
4.9	Contaminated soils or other materials	No	Not applicable
4.10	Agricultural wastes	No	Not applicable
4.11	Other solid wastes	Yes	Some horticulture waste will be generated and which will disposed accordingly.

5. Release of pollutants or any hazardous, toxic or noxious substances to air (Kg/hr)

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities / rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources	Yes	The operation of proposed project does not envisage any major air pollutant generating sources except D.G. Sets and vehicular movement during construction phase and operation phase. It is proposed to have a D.G. set of 62.5 kVA x 1 no. capacity during construction phase and 2,000 kVA x 4 nos. during operation phase.

5.2	Emissions from production processes	No	Not applicable. No production activity envisaged.
5.3	Emissions from materials handling including storage or transport	Yes	This will be restricted to the construction phase and within the project site only.
5.4	Emissions from construction activities including plant and equipment	Yes	Dust will be generated during unloading of construction materials, drilling and grinding operations etc. This will be restricted to the construction phase and within the project site only. The other source of emission is from D.G sets of 62.5 kVA of 1 no. which will be used during construction phase.
5.5	Dust or odours from handling of materials including construction materials, sewage and waste	Yes	During construction phase dust will be generated during the handling of construction materials. Sprinklers for suppression of dust will be installed during construction phase to minimize the dust generation. Wind breakers (i.e. barricades with GI sheets) at all vulnerable sides (all along the nearby buildings) or locations or using shade nets will be used for dust control.
5.6	Emissions from incineration of waste	No	Not applicable, no incineration proposed.
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)	No	Not applicable
5.8	Emissions from any other sources	No	Not applicable

6.0 Generation of Noise and Vibration, and Emissions of Light and Heat:

Sr. No.	Information / Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers	Yes	During construction, the machinery used for construction will be of highest standards and will be of reputed make and will adhere to international standards. These standards itself take care of noise generated from these machines. The construction involved commercial cum office complex project, no heavy machinery is required. Hence insignificant impacts due to

			<p>construction machinery are envisaged.</p> <p>The source of vibration from the project is during construction of the building. Pile foundation excavation through rotary drilling is the source of vibration. The PPV levels from the rotary drilling for pile foundation would be maintained within 10 mm / sec. at 20 m. from the source. Therefore, there will not be any damage due to the vibration to be generated during foundation work to the nearby structures.</p> <p>Apart from this, the construction activity will be restricted to day time only.</p> <p>Noise will be created from operation of D.G. sets but all the D.G. sets shall be silent generators to restrict the noise within the permissible limit.</p> <p>Noise barriers all along the project boundary will be created. Also the marble / tile cutting area noise barrier enclosures will be created at appropriate height.</p>
6.2	From industrial or similar processes	No	Not applicable
6.3	From construction or demolition	Yes	<p>Due to the various construction activities, there will be short term noise impacts in the immediate vicinity of the project site. The construction activity will include the following noise generation activities:</p> <p>Operation of D.G. Sets, concreting mixing and excavation.</p>
6.4	From blasting or piling	No	No blasting / piling will be adopted in the construction process.
6.5	From construction or operational traffic	Yes	Some amount of noise will be generated from vehicular movement in the construction and operation phase.
6.6	From lighting or cooling systems	Yes	<p>The lighting proposed within the project area during construction phase and operation phase will be limited to the permissible lux level.</p> <p>The proposed project is construction of an commercial cum office building project thereby buildings will be centrally</p>

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			air conditioned (except parking floors) and cooling system will be installed in the project.
6.7	From any other sources	No	Not applicable

7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials	No	Used Oil from the D.G. Sets will be stored in HDPE drums and will be kept at a separate place and sold to CPCB approved recyclers. Therefore there is no risk of contamination due to used oil. The storage of used oil will be in such a way that no spillage of hazardous materials.
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)	No	Sewage will be disposed off through proposed Sewage Treatment Plant to be developed within the premises both during construction and operation phase. There is no chance of spillage or discharge of sewage and all the sewage will be chanzalized properly through closed pipes to the STP. The sewage after treatment will be utilized for flushing, horticulture & cooling purposes.
7.3	By deposition of pollutants emitted to air into the land or into water	No	There is no emission except of D.G. set. By use of HSD diesel, the emission from the D.G. sets will be within the norms.
7.4	From any other sources	No	Not applicable
7.5	Is there a risk of long term build up of pollutants in the environment from these sources?	No	Not applicable

8. Risk of accidents during construction or operation of the Project, which could affect human health or the environment

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances	Yes	The project is construction of commercial cum office building project. The chances of explosions, spillages, fire are minimal. During construction all the labours will be provided with suitable personal protective equipment (PPE) as required under the health & safety norms.

			<p>Training and awareness about the safety norms will be provided to all supervisors and labours involved in construction activity.</p> <p>An agreement will be signed with the contractor which will clearly deals with the safety aspects during construction.</p> <p>No major hazardous waste is being stored within the project site. No Industrial or process activity is involved in this project hence chances of chemical hazards and accidents are minimal. However, suitable fire fighting measures will be provided.</p>
8.2	From any other causes	No	Not applicable
8.3	Could the project be affected by natural disasters causing environmental damage (e.g. floods, earthquakes, landslides, cloudburst etc)?	No	<p>As per seismic classification, the project site falls in Zone-III. No reported cloudburst in the area. Also, there is no hilly area around the project site, there is no chance of landslide.</p> <p>Structural design aspects as per the seismic codes – IS 1893 (2002), IS 13920 (1993) and IS 456 (2000) as applicable would be incorporated in our project.</p>

9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality.

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	<p>Lead to development of supporting utilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.:</p> <ul style="list-style-type: none"> • Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.) 	Yes	<p>Appropriate infrastructure like roads, power supply, waste management and waste water treatment will be developed within the site so that chances of occurrence of any adverse impacts are minimized.</p> <p>During construction skilled, unskilled and professional work force including temporary and permanent employees shall be hired locally in order to generate the employment to the local people. While during the project operation stage for the purpose of day-to-day maintenance, workers will be employed. Moreover, more employment will be created as a result of positive induced development in the immediate vicinity of project site.</p>
	<ul style="list-style-type: none"> • housing development 	No	Not applicable
	<ul style="list-style-type: none"> • extractive industries 	No	Not applicable

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	<ul style="list-style-type: none"> • supply industries • other 	No	Not applicable
9.2	Lead to after-use of the site, which could have an impact on the environment	No	Not applicable
9.3	Set a precedent for later developments	No	Not applicable
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects.	No	Not applicable

(III) Environmental Sensitivity

S. No.	Areas	Name/ Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	Yes	Trivandrum Zoo—about 9 km. (SE)
2	Areas which are important or sensitive for ecological reasons - Wetlands, water courses or other water bodies, coastal zone, biospheres, mountains, forests	Yes	Water bodies :- Drain – near to site (N) & (W) Thodu-(“Parvathy-Puthanaar) about 1 km. (SW) Arabian sea - About 2.25 km. (SW) Aakulam Lake - About 3.5 km (SE) Kadinamkulam lake - About 6.5 km. (NW) <i>(Information Source : Google Earth aerial distance)</i>
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	No	None within the area
4	Inland, coastal, marine or underground waters	Yes	Water bodies :- Drain – near to site (N) & (W) Thodu-(“Parvathy-Puthanaar) about 1 km. (SW) Arabian sea - About 2.25 km. (SW) Aakulam Lake - About 3.5 km (SE) Kadinamkulam lake - About 6.5 km. (NW) <i>(Information Source : Google Earth</i>

			<i>aerial distance)</i>
5	State, National boundaries	No	None within the area
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	No	None within the area
7	Defense installations	Yes	Military Area at Pangode, Trivandrum - About 13 km. (SE) And Military area at Aakulam - about 4.5 km. (SE) <i>(Source : Google Earth aerial distance)</i>
8	Densely populated or built-up area	Yes	The project site is within the suburb of Thiruvananthapuram Corporation & hence densely populated.
9	Areas occupied by sensitive man-made land uses (<i>hospitals, schools, places of worship, community facilities</i>)	Yes	Hospital, school, places of worship, community facilities etc. are available within the 15 km. radius.
10	Areas containing important, high quality or scarce resources (<i>ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals</i>)	Yes	Water bodies :- Drain – near to site (N) & (W) Thodu-(“Parvathy-Puthanaar) about 1 km. (SW) Arabian sea - About 2.25 km. (SW) Aakulam Lake - About 3.5 km (SE) Kadinamkulam lake - About 6.5 km. (NW) <i>(Information Source : Google Earth aerial distance)</i>
11	Areas already subjected to pollution or environmental damage. (<i>those where existing legal environmental standards are exceeded</i>)	No	No critically polluted area is located within 15 km. radius.
12	Areas susceptible to natural hazard which could cause the project to present environmental problems (<i>earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions</i>)	No	The project area and its surroundings falls under Zone-III, according to the Indian Standards Seismic Zoning Map. No reported earth quake, erosion, subsidence, cloud-burst in the area or in its surroundings. Also, there is no hilly area around the project site, there is no chance of landslide.

(IV). Proposed Terms of Reference for EIA studies

Ans. The project is having built-up area about 1,33,491 sq. m. which is less than 1,50,000 sq.m. and therefore, as per EIA Notification, 2006, the project falls under 8 (a) and hence EIA Studies is not required for this project.

"I hereby give an undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance given, if any to the project will be revoked at our risk and cost.



Mr. Ajay Prasad, (Managing Director)

M/s DRAGONSTONE REALTY PVT. LTD.

APPENDIX II

(See paragraph 6)

FORM-1 A

(Only for construction projects listed under item 8 of the Schedule)

(Environmental Clearance for Proposed Construction of Commercial cum Office Complex Project by M/s Dragonstone Realty Pvt. Ltd.)

at

Technopark Phase-3 Campus in Sy. Nos. 290/2(part), 290/3(part), 290/4(part), 290/5(part), 290/6(part), 290/7(part), 291/2(part), 291/3(part), 291/4, 291/5, 291/6, 291/7, 291/8, 291/9, 291/10(part), 291/11(part), 291/12, 291/13, 291/14, 291/15, 291/16, 291/17, 292/1, 292/2, 292/3, 292/4(part), 292/5(part), 292/6(part), 292/7(part), 292/8(part), 292/9(part), 292/10, 292/11(part), 295/1(part), 295/2 (part), 295/3 (part), 295/10 (part), 295/11 (part), 295/12, 295/13, 295/14, 295/15, 295/16, 295/17 (part), 296/1 (part), 296/2 (part), 296/5 (part), 296/6, 296/7, 296/8 to 296/19, 297/8 (part), 297/16 (part), 297/18 (part), 297/19], Village Attipra, Taluk & District Thiruvananthapuram, Kerala.

CHECK LIST OF ENVIRONMENTAL IMPACTS

(Project proponents are required to provide full information and wherever necessary attach explanatory notes with the Form and submit along with proposed environmental management plan & monitoring programme)

1.0 LAND ENVIRONMENT

(Attach panoramic view of the project site and the vicinity)

1.1. Will the existing land use get significantly altered from the project that is not consistent with the surroundings? (Proposed land use must conform to the approved Master Plan / Development Plan of the area. Change of land use if any and the statutory approval from the competent authority be submitted). Attach Maps of (i) site location, (ii) surrounding features of the proposed site (within 500 meters) and (iii) the site (indicating levels & contours) to appropriate scales. If not available attach only conceptual plans.

Ans. The proposed building is located within the existing Technopark Phase-3 campus at Attipra Village, Thiruvananthapuram District. External services like storm water, road network, water supply etc. are available within the Technopark campus.

The vicinity map and the satellite map showing the location of the project site & it's surroundings is provided. The conceptual plan showing the location of STP, Solid waste processing area, landscape area, parking area, rain water storage tank, building blocks, entry & exit to the site, internal traffic circulation within the site etc. is attached.

1.2. List out all the major project requirements in terms of the land area, built up area, water consumption, power requirement, connectivity, community facilities, parking needs etc.

Ans. The major project requirements for this construction projects are mentioned below:-

Objective of the project = Commercial cum Office Building Project

Facilities proposed = Commercial retail shops and Offices with necessary supporting infrastructure facilities

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Total plot area	=	3.9375 ha.
Total Built-up area	=	1,33,491 sq.m.
Expected project cost	=	Rs. 540 Crores
Total Domestic Water Req.	=	320 KL / day
Sewage Generation	=	256 KL / day
Sewage Disposal Facility	=	Sewage Treatment Plant & Recycling
Treated Water Available from STP	=	231 KL / day
Source of Water	:-	

1. Roof Rain Water (concurrent use) (Rainy Days) (Non-Flushing Req.),
2. Stored Rain Water & *Technopark* / KWA water supply / Well water (Non-Rainy days) (Non-Flushing Req.)
3. Treated waste water from STP (Flushing, horticulture & HVAC Req.) (Entire Year).

The details of the daily water requirement balance chart (rainy days & non – rainy days) is provided. Also attached is the activity wise population & daily water consumption details are attached.

Total Power Requirement	=	about 8,493 kW
Source of Power	=	Kerala State Electricity Board & D.G. Sets (standby)
Capacity of D.G. Sets	=	2,000 kVA x 4 nos.

Connectivity :-

The access to the project site is from 11 m. wide internal road of *Technopark* Phase-3 campus and this road is well connected to N.H. 66 Bypass Road located at about 200 m. (west side) from the project site.

The nearest railway station (*Kazhakkootam* Railway Station) is about 2.5 km. (W) and *Trivandrum* International Airport is about 10 km. (SE) away from the project site.

1.3. What are the likely impacts of the proposed activity on the existing facilities adjacent to the proposed site? (Such as open spaces, community facilities, details of the existing land use, disturbance to the local ecology).

Ans. The proposed building is located within the existing *Technopark* Phase-3 campus at *Attipra* Village, *Thiruvananthapuram* District. External services like storm water, road network, water supply etc. are available within the *Technopark* campus. External services like storm water, road network, water supply etc. are available within the *Technopark* Phase-3 campus. There would be no negative impacts on the existing facilities adjacent to the proposed site. The proposed project has provision for (i) Treatment of sewage and it's entire recycling thereby there is no discharge to the external drainage system or to the land or to any water body. (ii) By the use of stored rain water and the use of treated water from STP, the use of fresh water from the public supply will be reduced. The source of water for

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the project is from Technopark dedicated water supply scheme available for the proposed project and hence no impact to the water supply to the public. (iii) The project has made provision for roof rain water storage tanks which will use as source of water during rainy days (concurrent use) and for non rainy days. (iv) By the Bio-gas generation plant to be installed within the project site, the bio-degradable solid waste disposal will be managed within the site thereby no additional loading to the Common Solid waste disposal system. (v) There are various native trees, shrubs & herbs etc. existing at site and for the development of the proposed site these will be cleared from the site. As part of the eco restoration, large number of saplings of native species would be planted. Due to the eco restoration, the impact to floral and faunal ecology will be short term and the ecology will be enhanced.

1.4. Will there be any significant land disturbance resulting in erosion, subsidence & instability? (Details of soil type, slope analysis, vulnerability to subsidence, seismicity etc may be given).

Ans. There will be land disturbances due to the proposed construction project. There are chances of soil erosion from the project site during rainy days. The project site falls within Zone-III as per the seismological classification map of India. There is no history of subsidence of the project site or it's surroundings in the past. As per the soil investigation report the ground water level encountered at about 1.5 m. below the existing ground level.

1.5. Will the proposal involve alteration of natural drainage systems? (Give details on a contour map showing the natural drainage near the proposed project site)

Ans. The proposed development does not affect the drainage pattern of the site and surroundings.

1.6. What are the quantities of earthwork involved in the construction activity-cutting, filling, reclamation etc. (Give details of the quantities of earthwork involved, transport of fill materials from outside the site etc.)

Ans. Excavation of earthwork for the foundation of structures will be carried out. The top soil which is fertile will be kept at site for landscaping work. The excavated soil will be used for back filling work site leveling and remaining for internal road construction purposes.

1.7. Give details regarding water supply, waste handling etc. during the construction period.

Ans. Construction phase – It is expected to have about 150 workers (average) during construction phase. The water requirement during construction period is from the Technopark / KWA water supply, stored rain water & well water. The domestic water requirement is expected to be 11 KL per day and for construction purposes would be about 30 KL per day. Further, by using of ready mix concrete (RMC) & curing agents, the water will be reduced substantially. The major part of the construction water requirement will be fully consumed. The sewage generation from labourers during construction period would be about 9 KL/day and this quantity of domestic waste would be disposed through a mobile STP to be installed at the labour colony. The treated sewage will be used for meeting the landscape requirement. The non bio-degradable waste, the empty cement bags, other packaging materials etc. would be disposed to the vendors. The bio-degradable solid waste from the labour colony will be disposed in a bio-bin system for microbial composting from the labour colony.

1.8. Will the low lying areas & wetlands get altered? (Provide details of how low lying and wetlands are getting modified from the proposed activity)

Ans. Not applicable.

1.9. Whether construction debris & waste during construction cause health hazard? (Give quantities of various types of wastes generated during construction including the construction labour and the means of disposal)

Ans. The construction waste consists of earth, debris concrete, lumber, masonry and cardboards which are about 35%, 15%, 12% and 10% respectively. Construction waste would be disposed for backfilling purposes. The bio-degradable food waste from the construction labourers will be disposed in a bio-bin system for microbial composting from the labour colony. The non-biodegradable waste will be stored and sold to the vendors. The packaging material like cement bags etc. would also be sold to the vendors.

2.0 WATER ENVIRONMENT

2.1. Give the total quantity of water requirement for the proposed project with the breakup of requirements for various uses. How will the water requirement met? State the sources & quantities and furnish a water balance statement.

Ans. The details are provided below :-

Construction phase :-

The water requirement during construction phase is for construction purposes and for the domestic water requirements of the construction workers. The construction water requirement is expected to be 30 KL/day and for domestic purposes is estimated to be 11 KL/day. The water requirement during the construction phase will be met from the stored rain water & Technopark / KWA water supply & well water (only standby).

Operation phase :-

The total daily water requirement, water balance chart and source of water during the operation phase of the project calculated on the basis of full occupancy are mentioned below: -

**Total Domestic Water Req. = 320 KL / day
(which includes 174 KLD of fresh water req.)**

Sewage Generation = 256 KL / day

Sewage Disposal Facility = Sewage Treatment Plant & Recycling

Treated Water Available = 231 KL / day

The sources of water during operation phase for the proposed project are: -

1. Roof Rain Water (concurrent use) (Rainy Days) (Non-Flushing Req.),
2. Stored Rain Water & Technopark / KWA water supply / Well water (Non-Rainy days) (Non-Flushing Req.)
3. Treated waste water from STP (Flushing, horticulture & HVAC Req.) (Entire Year).

The project has made provision for rain water storage tanks will be used for the concurrent use of water & Technopark / KWA water supply hence source of water during rainy days & non-rainy days and hence the availability of water is ensured.

The Water Balance Chart (rainy days & non-rainy days) is attached. The activity wise population & daily water consumption details are attached.

2.2. What is the capacity (dependable flow or yield) of the proposed source of water?

Ans. Details are given below :-

Construction Phase

During construction phase, the source is from the *Technopark / KWA* water supply, open well & recycled water from STP & rain water storage tank. With the estimated construction phase water requirement of about 41 KL/day (30 KDL + 11 KLD) extending for a period of about 60 months, this source is dependable.

Operation Phase

The source of water for the proposed project during operation phase will be water from the proposed rain water collection tanks within the site of for meeting the water requirement for non-flushing (concurrent use during rainy days). Also, it proposed to construct STP for the treatment of domestic sewage. During non-rainy days, the source of water is from stored rain water tanks and *Technopark / KWA* water supply for meeting the non-flushing water requirement. The treated waster from STP would meet the water requirement for flushing, horticulture & cooling requirements. Therefore by these sources and by an integrated water management approach, a dependable source of water is ensured. Further details are provided in water balance chart which is provided.

2.3. What is the quality of water required, in case, the supply is not from a municipal source? (Provide physical, chemical, biological characteristics with class of water quality)

Ans. The source of water for the proposed project will be from stored rain water during rainy days & non-rainy days for non-flushing purposes, well water, *Technopark / KWA* Water supply & treated sewage for meeting the flushing water requirement. It is proposed to have Sewage Treatment Plant (STP) for treatment of domestic sewage. Also, it is proposed to have WTP for filtration & disinfection of rain water before its use. The water quality of the well available near to the site is collected and analyzed through an NABL accredited laboratory.

2.4. How much of the water requirement can be met from the recycling of treated wastewater? (Give the details of quantities, sources and usage)

Ans. The proposed project has provision for treatment of sewage. The quantity of treated water from STP which is fit for recycling to meet the flushing requirement (213 KLD), horticulture (5 KLD) & excess to the cooling requirement. The details of recycling and it's usage are provided in water balance chart.

2.5. Will there be diversion of water from other users? (Please assess the impacts of the project on other existing uses and quantities of consumption)

Ans. Since there is minimal dependency on public supply, there is no diversion of water from other users. The water supply for the proposed project is from stored rain water and recycled water and hence there will be minimum impact to the surrounding.

2.6. What is the incremental pollution load from wastewater generated from the proposed activity? (Give details of the quantities and composition of wastewater generated from the proposed activity)

Ans. There would be no incremental pollution load from wastewater generated from the proposed activity because the whole waste water of this project would be treated through proposed S.T.P. within the project area and the treated water from S.T.P will be fully re-used during non rainy days and no

discharge outside the project site during rainy days. Therefore, no impact outside the site.

2.7. Give details of the water requirements met from water harvesting? Furnish details of the facilities created.

Ans. One of the source of water for the proposed project will be water from stored rain water in tanks to be constructed within the site for meeting the water requirement for non-flushing activities. The capacity of the rain water storage tank requirement is = ground coverage of the building x 25 ltr. as per KMBR. However, provision will be made for storage of rain water more than the statutory requirement. Also, it is proposed to construct rain water harvesting pits to recharge the ground water level.

2.8. What would be the impact of the land use changes occurring due to the proposed project on the runoff characteristics (quantitative as well as qualitative) of the area in the post construction phase on a long term basis? Would it aggravate the problems of flooding or water logging in any way?

Ans. It is proposed to have rain water storage tank to store the rain water for using of rain water as source of water. Also, it is proposed to construct rain water harvesting pits to recharge the ground water level. Due to this measure, there would be no incremental load and will not cause any flooding or water logging. The excess runoff from the site before discharge outside the premises will be passing through a de-siltation cum oil removal unit. The excess storm water will be chenalized to the external drain which is available near to the site.

2.9. What are the impacts of the proposal on the ground water? (Will there be tapping of ground water; give the details of ground water table, recharging capacity, and approvals obtained from competent authority, if any)

Ans. As per the soil investigation report the ground water level encountered at about 1.5 m. below the existing ground level. The source of water for the proposed project will be water from rain water storage tanks for meeting the water requirement during rainy days-concurrent use and stored for non-rainy days and *Technopark / KWA* water supply at site for meeting the water requirement for non-flushing activities and hence the availability of water is ensured and due to the reasons mentioned above, the dependency on ground water will be minimized.

2.10. What precautions/measures are taken to prevent the run-off from construction activities polluting land & aquifers? (Give details of quantities and the measures taken to avoid the adverse impacts)

Ans. The run-off during construction phase will be partially channelized to the rain water storage tank. The excess runoff will be channelized from the site after de-silting and oil removal and therefore, the run-off will not contaminate the land and aquifer. Further regular housekeeping will be carried out at site in order to prevent the contamination of run-off due to non-point sources of pollution. The labour colony will be provided with adequate potable toilet facility so as to avoid open defecation. The exposed earth during rainy days will be protected. The loose construction materials during the rainy days will be protected.

During operation phase, the surface runoff will be channelized through a de-siltation cum oil removal unit before it leaves the site. Also regular house keeping will be carried out in order to prevent the contamination of run-off due to non-point sources of pollution. The roof run-off will be channelized to a rain water storage tanks and the excess run-off from the tank will be discharged outside drain available in the Technopark campus.

2.11. How is the storm water from within the site managed? (State the provisions made to avoid flooding of the area, details of the drainage facilities provided along with a site layout indication contour levels)

Ans. The run-off during construction phase will be partially channelized to the rain water storage tank. The excess runoff will be channelized from the site after de-silting and oil removal and therefore, the run-off will not contaminate the land and aquifer. Further regular housekeeping will be carried out at site in order to prevent the contamination of run-off due to non-point sources of pollution. The labour colony will be provided with adequate potable toilet facility so as to avoid open defecation. The exposed earth during rainy days will be protected. The loose construction materials during the rainy days will be protected.

During operation phase, the surface runoff will be channelized through a de-siltation cum oil removal unit before it leaves the site. Also regular house keeping will be carried out in order to prevent the contamination of run-off due to non-point sources of pollution. The roof run-off will be channelized to a rain water storage tanks and the excess run-off from the tank will be discharged outside drain.

2.12. Will the deployment of construction labourers particularly in the peak period lead to unsanitary conditions around the project site (Justify with proper explanation)

Ans. The proposed project has provision of labor colony with toilet facility and the domestic sewage will be channelised to the STP during the construction period. Also, it is proposed to have the food waste from labor colony through the microbial bio-bin facility. Also, it is proposed to have a dedicated staff for good house keeping of the construction site premises and the labor colony premises. These measures will ensure a good hygienic conditions around the labor colony.

2.13. What on-site facilities are provided for the collection, treatment & safe disposal of sewage? (Give details of the quantities of wastewater generation, treatment capacities with technology & facilities for recycling and disposal)

Ans. The proposed project will provide of mobile STP for the treatment of sewage during construction phase and STP of about 308 KL capacity within the project premises to treat the sewage during operation phase. The treatment of the sewage will be done upto a tertiary level. The total quantity of sewage generation will be 256 KL/day. The treated water will be fully recycled for meeting the flushing, horticulture & cooling water requirement. There will be no sewage discharge from the proposed project premises after development of the proposed project.

2.14. Give details of dual plumbing system if treated waste used is used for flushing of toilets or any other use.

Ans. The treated waste water from the proposed Sewage Treatment Plant during the operation phase of the project will be used for flushing, horticulture & cooling purposes and for which dual plumbing system is proposed.

3.0 VEGETATION

3.1. Is there any threat of the project to the biodiversity? (Give a description of the local ecosystem with its unique features, if any)

Ans. There are various native species of trees, shrubs, herbs etc. existing at site as part of floral ecology. Some of the species identified are exotic & invasive species. Also the site has several faunal species.

3.2. Will the construction involve extensive clearing or modification of vegetation? (Provide a detailed account of the trees & vegetation affected by the project)

Ans. There are various native species of trees, shrubs, herbs etc. existing at site as part of floral ecology. For the development of the project site, the existing vegetation will be cleared from the site.

As per the "*Kerala Promotion of Tree Growth in Non-Forest Areas (Amendment) Act, 2007*", no permission is required for cutting of these trees.

3.3. What are the measures proposed to be taken to minimize the likely impacts on important site features (Give details of proposal for tree plantation, landscaping, creation of water bodies etc along with a layout plan to an appropriate scale)

Ans. It is proposed to have large number (mostly flowering & shady trees) of tree plantation (native species), shrubs, herbs as part of the landscape development of the project. The species includes flowering, fruit bearing trees. These measures will enhance the floral ecology.

4.0 FAUNA

4.1. Is there likely to be any displacement of fauna- both terrestrial and aquatic or creation of barriers for their movement? Provide the details.

Ans. There will be displacement of fauna specially avifauna on short term basis due to the construction of the proposed project.

4.2. Any direct or indirect impacts on the avifauna of the area? Provide details.

Ans. There is direct and indirect impact on the avifauna of the area due to this project on short term basis during construction phase.

4.3. Prescribe measures such as corridors, fish ladders etc to mitigate adverse impacts on fauna

Ans. By plantation of flowering, fruit bearing and shady trees the faunal ecology specially the avifauna will be enhanced. Also, it is proposed to develop a butterfly garden and a bird bath. These measures will minimize the adverse impact on the faunal ecology of the area.

5.0 AIR ENVIRONMENT

5.1. Will the project increase atmospheric concentration of gases & result in heat islands? (Give details of background air quality levels with predicted values based on dispersion models taking into account the increased traffic generation as a result of the proposed constructions)

Ans. The proposed project is construction of a commercial cum office building project and it will not increase atmospheric concentration of gases, the project has provision of D.G. Sets for standby arrangement of electricity and will run only during power failure. The stack attached to the proposed D.G. Sets will follow all the rules and regulations of State Pollution Control Board and Central Pollution Control Board. Also the fuel to be used in the DG set will use only Low Sulphur diesel.

The ambient air quality of the site carried out through an accredited laboratory.

5.2. What are the impacts on generation of dust, smoke, odorous fumes or other hazardous gases? Give details in relation to all the meteorological parameters.

Ans. During construction phase, there will be generation of dust & smoke due to this project. The dust generation during construction phase will be controlled by enclosures at appropriate locations and also by sprinkling of

water for suppression of dust. A wind barrier will be erected all along the periphery of the project site. The gas/smoke generation expected is from D.G. sets only and the gases will be vented out through stack of appropriate height.

5.3. Will the proposal create shortage of parking space for vehicles? Furnish details of the present level of transport infrastructure and measures proposed for improvement including the traffic management at the entry & exit to the project site.

Ans. The proposed project would provide vehicle parking facilities within the project premises. The parking plan for this project would follow KMBR guidelines. The conceptual plan clearly shows the internal traffic management with entry and exit to the proposed project site. The proposed site development will provide minimum drive way as per KMBR at all around the building block for easy & smooth vehicular movement.

The access to the project site is from 11 m. wide internal road of *Technopark* Phase-3 campus and this road is well connected to N.H. 66 Bypass Road located at about 200 m. (west side) from the project site.

The nearest railway station (Kazhakkootam Railway Station) is about 2.5 km. (W) and Trivandrum International Airport is about 10 km. (SE) away from the project site.

5.4. Provide details of the movement patterns with internal roads, bicycle tracks, pedestrian pathways, footpaths etc., with areas under each category.

Ans. The conceptual plan shows the internal traffic management with entry and exit to the proposed project site, all internal roads and its width, pedestrian pathways etc. Further provision of ramps are proposed for the easy access to the building for physically challenged persons.

5.5. Will there be significant increase in traffic noise & vibrations? Give details of the sources and the measures proposed for mitigation of the above.

Ans. The proposed project is construction of a commercial cum office building project and there would be some increase in noise and vibration due to the vehicular movement within the project site. The project has provision of large area for the parking for the vehicles and the parking arrangement which is planned, that there would be easy movement of vehicles within the project area and smooth movement is provided for the vehicles to reduce the traffic congestion.

5.6. What will be the impact of DG sets & other equipment on noise levels & vibration in & ambient air quality around the project site? Provide details.

Ans. The D.G. sets which would be used for the project will be with sound proof acoustic enclosures and hence there will be no impact to the surroundings. The D.G. sets would be attached with proper anti vibration pads to reduce any vibration impact to the site surrounding. Further, DG sets will be installed on the ground level.

The flue gases from the D.G. sets will be vented out through stack of appropriate height as per C.P.C.B. norms to reduce the impacts on air quality around the project site.

6.0 AESTHETICS

6.1. Will the proposed constructions in any way result in the obstruction of a view, scenic amenity or landscapes? Are these considerations taken into account by the proponents?

Ans. There is no natural feature of aesthetics importance located in the immediate vicinity of the project site.

6.2. Will there be any adverse impacts from new constructions on the existing structures? What are the considerations taken into account?

Ans. The project site is located within the Technopark campus and the project site is surrounded by the I.T. buildings and Technopark internal road, vacant land with plantations. Thereby, there will be no any adverse impacts due to the development of the proposed project.

6.3. Whether there are any local considerations of urban form & urban design influencing the design criteria? They may be explicitly spelt out.

Ans. The proposed project would be constructed in conformity with the Kerala Municipal Building Rules (KMBR).

As per seismic classification, the project site falls in Zone-III. No reported cloudburst in the area. Also, there is no hilly area around the project site, there is no chance of landslide. Structural design aspects as per the seismic codes – IS 1893 (2002), IS 13920 (1993) and IS 456 (2000) as applicable would be incorporated in our project.

6.4. Are there any anthropological or archaeological sites or artefacts nearby? State if any other significant features in the vicinity of the proposed site have been considered.

Ans. There is no report of existence of any anthropological or archaeological site nearby the project area. The proposed project is located in Corporation Limit of Thiruvananthapuram. The vicinity map showing the site & surrounding area is provided.

7.0 SOCIO-ECONOMIC ASPECTS

7.1. Will the proposal result in any changes to the demographic structure of local population? Provide the details.

Ans. The proposed project is a commercial cum office building project. During operation phase, on full occupancy of the project, the maximum population expected is 14,384 persons (floating) and hence there will be influx of people (fixed) to the project area and surrounding. Some of the staff may reside within the project site vicinity and hence there will be increase in demographic structure.

7.2. Give details of the existing social infrastructure around the proposed project.

Ans. There are several schools, colleges, religious places commercial and residential buildings, Govt. and private offices, hospitals, which are located around the proposed project. The vicinity map showing the surrounding details of the proposed project is provided.

7.3. Will the project cause adverse effects on local communities, disturbance to sacred sites or other cultural values? What are the safeguards proposed?

Ans. The project would not cause any adverse effects on local communities, disturbance to sacred sites or other cultural values. The proposed project is a commercial cum office complex project and thereby the living index of the people around the project site will definitely improve. Also there will be various ancillary activities like convenient shops, offices, transport facilities etc. attached to the project which will benefit the local people and change their living condition.

8.0 BUILDING MATERIALS

8.1. May involve the use of building materials with high-embodied energy. Are the construction materials produced with energy efficient processes? (Give details of energy conservation measures in the selection of building materials and their energy efficiency)

Ans. The proposed project is construction of a commercial cum office complex project and the proposed buildings are a centrally air conditioned, the selection of building materials plays a major role in the energy consumption. The proposed project will make all attempts to use to avoid building materials with high embodied energy. Cement blocks & hollow blocks will be replaced with country made red bricks. Further, the river sand will be replaced by manufactured sand from stone crushers. The glass used will be low emissivity and having U value as per ECBC norms.

8.2. Transport and handling of materials during construction may result in pollution, noise & public nuisance. What measures are taken to minimize the impacts?

Ans. All vehicles which bring construction material to the site would possess Pollution Under Control Certificates (PUC). All vehicles would be of close body to avoid spread of dust from the loose materials, and vehicles which bring sand, stone dust, etc. would ensure that the above mentioned material are properly wetted during transportation to avoid dust generation. Pucca road to be made in the construction site for the vehicle movement so that the dust generation due to the vehicular movement within the project site can be minimized. Stacking of construction material shall be confined to the project site only. All the D.G. Sets would have attached with Acoustic Enclosure for the sound pollution control and all sound generating construction activity to be minimized. Further barricading of the site with GI sheets of 20 ft height in the side abutting the public road during construction phase.

8.3. Are recycled materials used in roads and structures? State the extent of savings achieved?

Ans. The plastic (non-biodegradable solid waste) will be used along with coal tar during the construction of internal roads. This will increase the life of roads.

8.4. Give details of the methods of collection, segregation & disposal of the garbage generated during the operation phases of the project.

Ans. The details are given below :-

SOLID WASTE

- ✓ The proposed project will generate about 1,612 Kg/day.
- ✓ The Solid Waste Management Rules, 2016 will be followed in the Solid Waste Disposal Mechanism at the site during operation phase.
- ✓ Collection & segregation within the site (bio-degradable waste (green bins), non-biodegradable waste (blue bins) and domestic hazardous waste (yellow bins).
- ✓ The recyclable waste like packaging material, paper etc. would be sold through.
- ✓ The Bio-degradable waste would be disposed through the bio-gas generation units to be installed within the site.
- ✓ The bio-gas generated will be utilized in the canteen / kitchen area and the manure generated will be utilized for green area development within the premises.

e-Waste :-

- ✓ Discarded computer parts, monitor, key boards etc. constitutes e-waste and this waste will be stored in an earmarked area.

- ✓ E-waste will be generated after 4-5 years latency period
 - ✓ Separate earmarked space will be provided for e-waste storage.
 - ✓ E-waste will be disposed as per E Waste (Management & Handling) Rules.
- HAZARDOUS WASTE**

- ✓ As per Hazardous Waste (Management & Handling Rules), the hazardous waste i.e., the used oil from D.G. sets, discarded oil filters and discarded batteries and stored separately and will be disposed to CPCB / SPCB authorized vendors only.
- ✓ M/s Pefect Alloys, Chengannur, M/s Peejay Enterprises, Thiruvalla, M/s Excel Petrochemicals, Kochi and M/s Cee Jee Lubricants, Aluva are the approved recyclers for discarded batteries & used oil located in Kerala.
- ✓ Also, domestic hazardous waste would be generated like discarded paint drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles and syringes and contaminated gauge etc. generated at the household level.

9.0 ENERGY CONSERVATION

9.1. Give details of the power requirements, source of supply, backup source etc. What is the energy consumption assumed per square foot of built-up area? How have you tried to minimize energy consumption?

Ans. The total power requirement is estimated to be 8,493 kW and will be from by Kerala State Electricity Board. The project will make provision of D.G. Sets (2,000 kVA x 4 nos.) as standby arrangement of electricity. The proposed project will have provision of power saving. Other measures are:-

- Water cooled chillers in place of air cooled chillers which are energy intensive & the treated water available from STP would be used as make-up water attached to the water cooled chillers.
- Solar Energy operated Photovoltaic lighting for partial external areas lighting.
- Savings in energy by the use of LED lamps.
- Building Management System (BMS) through sensors for maximizing the energy conservation.
- Solar water heating system for the hot water requirement.
- Electrical fixtures & HVAC unit would be of 5 star series as per Bureau of Energy Efficiency (BEE) to achieve reduction in energy consumption.
- Total energy saving of about 23%.

9.2. What type of and capacity of power back-up to you plan to provide?

Ans. The project proponent has made provision of D.G. Sets (2,000 kVA x 4 nos.) as standby arrangement of electricity.

9.3. What are the characteristics of the glass you plan to use? Provide specifications of its characteristics related to both short wave and long wave radiation?

Ans. The glass used will be low emissivity and the other specifications of the glass will comply with the norms as per ECBC. The further details are :-

Sr. No.	Description of Material with Specification for commercial buildings (Air-conditional building)	U-Value of the overall assembly
1.	EXTERNAL WALL External finish + 200 mm thick Cement Blocks + Thermal insulation + Stone cladding wall plastered on both side with 5 mm thick aluminium composite panel	0.39 W / m2 K)
2.	ROOF 150 mm thick expanded polystyrene insulation + Water Proofing Compound + 40 mm thick Roof Tiles Grouted with 1:4 Cement Mortar	0.367 W / m2 K)
3.	GLASS Glazing shall be of double glass with air gap (6 mm + 12 mm air gap + 6 mm)	3.30 W / m2 K)

9.4. What passive solar architectural features are being used in the building? Illustrate the applications made in the proposed project.

Ans. All the relevant features are incorporated like the orientation of the building, shading effect etc.

9.5. Does the layout of streets & buildings maximise the potential for solar energy devices? Have you considered the use of street lighting, emergency lighting and solar hot water systems for use in the building complex? Substantiate with details.

Ans. Due consideration has been taken for maximum use of the solar energy while preparation of layout plan. The project proponent shall made provision for solar panel system (hot water purpose) in building block area and solar energy devices will be used for street lighting, emergency lighting in the proposed project.

9.6. Is shading effectively used to reduce cooling/ heating loads? What principles have been used to maximize the shading of Walls on the East and the West and the Roof? How much energy saving has been effected?

Ans. All the relevant features are incorporated like the orientation of the building, shading effect etc.

9.7. Do the structures use energy-efficient space conditioning, lighting and mechanical systems? Provide technical details. Provide details of the transformers and motor efficiencies, lighting intensity and air-conditioning load assumptions? Are you using CFC and HCFC free chillers? Provide specifications.

Ans. Suitable energy optimization will be adopted during the calculation of energy load of the proposed project. The space heating load will be minimized using passive solar structure and suitable buildings envelop material. Uses of incandescent lamp and halogen lamps have been avoided and energy efficient LED lamps will be used for all common area. The diesel generator sets shall be automatically controlled to optimize their usage based on the actual load requirements at any time. Variable frequency drive systems would be adopted for the lifts etc. to maximize the energy saving.

9.8. What are the likely effects of the building activity in altering the micro-climates? Provide a self assessment on the likely impacts of the proposed construction on creation of heat island & inversion effects?

Ans. More open spaces are proposed within the site to creation of any heat islands. The roads and parking spaces would be with concrete slabs intermittent with grass on surrounding.

9.9. What are the thermal characteristics of the building envelope? (a) roof; (b) external walls; and (c) fenestration? Give details of the material used and the U-values or the R values of the individual components.

Ans. The building construction material namely bricks, concrete and steel are being used in the construction. U-factor, also known as Thermal Transmittance, is heat transmission in unit time through unit area of a material or construction and the boundary air films, induced by unit temperature difference between the environments on each side. The glass used will be low with low emissivity and the other specifications of the glass will comply with the norms as per ECBC.

9.10. What precautions & safety measures are proposed against fire hazards? Furnish details of emergency plans.

Ans. List of equipments proposed for Fire Fighting Measures:-

- A. The major equipments proposed for Fire Fighting Measures are Main Hydrant Pump, Sprinkler Pump, Diesel Engine Pump, Jockey Pump.
- B. Capacity of Fire Water Storage Tanks & Number:-
It is proposed to have Fire Water Storage Tank of appropriate capacity of overhead tank for fire fighting provided at the tower.
- C. Fire Detecting Equipments: -
The Fire Detecting Equipments would be as per BIS and NBC norms.
- D. Other Fire Fighting Measures: -
The other Fire Fighting Measures proposed includes, an Emergency Control Room, Separate Fire exit during emergency, all rooms with Fire Detector / Smoke Detector, Fire Extinguishers at each entry and exit point on each floor, (5 Kg, 10 Kg and 9 Ltr. capacity), Public address system etc. The Fire Fighting Measures are backed by Electrical supply from D.G. sets in case of emergency.
The nearest fire station is at Technopark fire station which is about 1.5 km. away from the project site.

9.11. If you are using glass as wall material provides details and specifications including emissivity and thermal characteristics.

- Ans. The glass will be used Low-e glass. Opaque assemblies shall be modeled as having the same heat capacity as the proposed design but with minimum U-factor.
The glass used will be low with low emissivity and the other specifications of the glass will comply with the norms as per ECBC.**

9.12. What is the rate of air infiltration into the building? Provide details of how you are mitigating the effects of infiltration.

- Ans. Infiltration is the uncontrolled inward air leakage through cracks and crevices in any building element and around windows and doors of a building caused by pressure differences across these elements due to factors such as wind, inside and outside temperature differences, and imbalance between supply and exhaust air systems.**

9.13. To what extent the non-conventional energy technologies are utilised in the overall energy consumption? Provide details of the renewable energy technologies used.

- Ans. The use of non-conventional source of energy in the proposed construction project are as follows: -**
- a. **Solar Water Heater: -**
The proposed project would install solar panels for hot water requirements in the building block and hence the dependency on electricity for hot water generation can be minimized. This would conserve lot of coal which produces the electricity through public supply and also load on D.G. sets also would be reduced and there by conserve diesel.
 - b. **Solar Street Light: -**
It is also suggested to use solar cell powered street lights within the proposed project site for conservation of electricity.
 - c. **Use of LED Lamps: -**
The project proponent would use LED Lamp which conserve less electricity.

10.0 Environment Management Plan

The Environment Management Plan would consist of all mitigation measures for each item wise activity to be undertaken during the construction, operation and the entire life cycle to minimize adverse environmental impacts as a result of the activities of the project. It would also delineate the environmental

monitoring plan for compliance of various environmental regulations. It will state the steps to be taken in case of emergency such as accidents at the site including fire.

Ans. The details regarding Environment Management Plan is attached.

This is the true copy of the document of the document referred to and marked as Annexure.R.4 (A) in the reply statement

A handwritten signature in black ink, appearing to be 'S. R. M. M.', written over a horizontal line. There are three dots below the line.



The Member Secretary,
State Environment Impact Assessment Authority,
Thiruvananthapuram, Kerala.

Dt. 28-12-2018

Sub.:- ToR for EIA Study – Proposed Expansion of Mixed Land Use (Master Plan) project at Technopark Phase-3 Campus (Non-SEZ plot) in Sy. Nos. 290/2 (part), 290/3 9 (part) & others, Attipra Village, Taluk & District Thiruvananthapuram, Kerala – Application – Reg.

Respected Sir,

We propose to expand Mixed Land Use (Master Plan) project at Technopark Phase-3 Campus (Non-SEZ plot) in Sy. Nos. 290/2 (part), 290/3 9 (part) & others, Attipra Village, Taluk & District Thiruvananthapuram, Kerala. The project was recommended for Environment Clearance in it's 32nd EAC meeting held on 02-07-2018 (Item No. 32.3.8) at MoEF&CC for a built-up area of 1,33,491 sq.m. The project proponent decided to expand the built-up area, after the proposed expansion, the total built-up area will be of 2,71,164.4 sq.m. (approved built-up area 1,33,491 sq.m. + additional built-up area 1,37,673.4 sq.m.) (Category 8(b)).

In this connection, attached herewith are the following documents for the Environment Clearance. The documents are:-

1. Duly filled Form – 1 (Appendix I)
2. Duly filled Form – 1A (Appendix II)
3. Conceptual Plan
4. Pre-feasibility report (PFR) of the project prepared as per the guidelines of MoEF vide O.M. dt. 30-12-2010
5. Draft Terms of Reference (ToR) (prepared as per the Standard Terms of Reference prescribed by MoEF&CC)
6. Copy of approved minutes of meeting of 32nd EAC published by MoEF&CC for "*recommended the project for grant of environmental clearance*".

Please note that the application processing fees for an amount of Rs. 2 Lakhs is already submitted (D.D. no. 505226 dated 17-10-2018, ICICI Bank) on 17-10-2018.

In view of the above submissions, we humbly request you to consider our application and approve the draft terms of reference (ToR) to our proposed project at the earliest.

Thanking you,
Yours respectfully,

For M/s Dragonstone Realty Pvt. Ltd.

(Authorized Signatory)

APPENDIX I

(See paragraph – 6)

FORM 1

(I) Basic Information

Sr. No.	Item	Details
1.	Name of the project/s	Environmental Clearance for Proposed Expansion of Mixed Land use (Master Plan) Project by M/s Dragonstone Realty Pvt. Ltd.
2.	S. No. in the schedule	8 (b), Construction Project with built-up area 2,71,164.4 sq.m. which is more than 1,50,000 sq. m.
3.	Proposed capacity / area / length / tonnage to be handled/command area/lease area/ number of wells to be drilled	Total Plot Area = 3.937 ha. Total Built-up Area = 2,71,164.4 sq. m. (approved built-up area 1,33,491 sq.m. + additional built-up area 1,37,673.4 sq.m.)
4.	New/Expansion/Modernization	Proposed Expansion of Mixed Land use (Master Plan) Project
5.	Existing capacity/area etc.,	The project was recommended for Environment Clearance in it's 32nd EAC meeting held on 02-07-2018 (Item No. 32.3.8) at MoEF&CC for a built-up area of 1,33,491 sq.m. The project proponent decided to expand the built-up area, after the proposed expansion, the total built-up area will be of 2,71,164.4 sq.m. (approved built-up area 1,33,491 sq.m. + additional built-up area 1,37,673.4 sq.m.) in the same plot area. The approved minutes of meeting is attached with application.
6.	Category of Project i.e. 'A' or 'B'	Category 'B'
7.	Does it attract the general condition? If yes, please specify	NO
8.	Does it attract the specific condition? If yes, please specify	NO
9.	Location	Technopark Phase-3 Campus in Re-Sy. Nos. 290/2 part, 290/3 part, 290/4 part, 290/5 part, 290/6 , 290/7 part, 291/2 part, 291/4 part, 291/5 part, 291/6 part, 291/7, 291/8, 291/9 part, 291/11 part, 291/12, 291/13, 291/14, 291/15, 291/16, 291/17, 291/18, 291/19, 292/1, 292/2, 292/3, 292/4 part, 292/5 part, 292/6 part, 292/8 part, 292/9, 292/10, 295/1 part, 295/2 part, 295/3 part, 295/8 part, 295/9, 295/10, 295/11 part, 295/12, 295/13, 295/14, 295/17 part, 295/19 part, 295/23 part, 296/1 part, 296/2 part, 296/5 part, 296/6 part, 296/7, 296/8, 296/9, 296/10, 296/11, 296/12, 296/13, 296/14, 296/15, 296/16, 296/17, 296/18, 296/19, 297/8

		part, 297/18 part, 297/19 part, 292/2 part, 292/3 part, 292/8 part, 292/9 part, 292/10 part, 292/11 part, 292/12 part, 292/14 part, 292/18 part, 295/14 part, 295/15, 295/16, 295/17 part, 295/18 part, 296/10 part, 296/18 part, 296/19 part, Village Attipra, Taluk & District Thiruvananthapuram, Kerala.
	Plot/Survey/Khasra No.	Technopark Phase-3 Campus in Re-Sy. Nos. 290/2 part, 290/3 part, 290/4 part, 290/5 part, 290/6 , 290/7 part, 291/2 part, 291/4 part, 291/5 part, 291/6 part, 291/7, 291/8, 291/9 part, 291/11 part, 291/12, 291/13, 291/14, 291/15, 291/16, 291/17, 291/18, 291/19, 292/1, 292/2, 292/3, 292/4 part, 292/5 part, 292/6 part, 292/8 part, 292/9, 292/10, 295/1 part, 295/2 part, 295/3 part, 295/8 part, 295/9, 295/10, 295/11 part, 295/12, 295/13, 295/14, 295/17 part, 295/19 part, 295/23 part, 296/1 part, 296/2 part, 296/5 part, 296/6 part, 296/7, 296/8, 296/9, 296/10, 296/11, 296/12, 296/13, 296/14, 296/15, 296/16, 296/17, 296/18, 296/19, 297/8 part, 297/18 part, 297/19 part, 292/2 part, 292/3 part, 292/8 part, 292/9 part, 292/10 part, 292/11 part, 292/12 part, 292/14 part, 292/18 part, 295/14 part, 295/15, 295/16, 295/17 part, 295/18 part, 296/10 part, 296/18 part, 296/19 part
	Village	Attipra
	Tehsil	Thiruvananthapuram
	District	Thiruvananthapuram
	State	Kerala
10.	Nearest railway station/airport along with distance in Kms	The nearest railway station (Kazhakkootam Railway Station) is about 1.5 km. (NW) and Trivandrum International Airport is about 10 km. (S) away from the project site. (road distance)
11.	Nearest Town, city, District Headquarters along with distance in Kms	Town / City – Project site is within Trivandrum city limits District Headquarters - Kudappanakunnu, Thiruvananthapuram, at about 14 km.(E) (road distance)
12	Village Panchayats, Zilla Parishad, Municipal Corporation, Local body (complete postal addresses with telephone nos. to be given)	<u>Village Office Address :-</u> Attipara Village Office, Sreekariyam Kazhakuttam Road, Manvila Industrial Estate, Manvila, Thiruvananthapuram, Kerala-695011. Contact No. 0854610129. <u>Municipal Corporation Office Address :-</u> Zonal Office of Municipal Corporation of Thiruvananthapuram, Kachani Aruvikkara Rd, Vattiyoorkavu, Nettayam, Thiruvananthapuram, Kerala- 695013. Ph. 0471 - 2320821.

13	Name of the applicant	M/s Dragonstone Realty Pvt. Ltd.
14	Registered Address	M/s Dragonstone Realty Pvt. Ltd. B' Hub, Cardinal Cleemis Centre for Innovations, Mar Ivanios, Vidya Nagar, Nalanchira, Thiruvananthapuram, Kerala-695015.
	Address for correspondence :	M/s Dragonstone Realty Pvt. Ltd. B' Hub, Cardinal Cleemis Centre for Innovations, Mar Ivanios, Vidya Nagar, Nalanchira, Thiruvananthapuram, Kerala-695015.
	Name	Mr. Ajay Prasad Mr. R. Anil Kumar
	Designation (Owner/Partner/CEO)	Authorized Signatories
	Address	M/s Dragonstone Realty Pvt. Ltd. B' Hub, Cardinal Cleemis Centre for Innovations, Mar Ivanios, Vidya Nagar, Nalanchira, Thiruvananthapuram, Kerala-695015.
	Pin Code	Kerala-695015.
	E-Mail	binu@synergyind.com & aprasad@tiholdings.com akumar@tiholdings.in
	Telephone No.	09747210101 / 08606679000
	Fax No.	N.A.
16	Details of Alternative Sites examined, if any. Location of these sites should be shown on a topo sheet	Not Applicable Village-District-State 1. 2.
17	Interlinked Projects	No, proposed project is mixed land use (Master Plan) building construction project which requires Environmental Clearance as per EIA Notification, 2006.
18	Whether separate application of interlinked projects has been submitted?	Not applicable
19	If yes, date of submission	Not applicable
20	If no, reason	Not applicable
21	Whether the proposal involves approval/clearance under: If yes, details of the same and their status to be given. (a) The Forest (Conservation) Act, 1980? (b) The Wildlife (Protection) Act, 1972? (c) The C.R.Z Notification, 2011 ?	NO - The proposed site is within the Technopark Campus Phase-3 (in Non-SEZ Plot). The proposed project land is lease with M/s Dragonstone Realty Pvt. Ltd. & M/s Dorne Realty Pvt. Ltd. from Technopark for 90 Years and the proposed land is not attract Forest (Conservation) Act, 1980. NO - The project site is not attracting Wildlife (Protection) Act, 1972. NO - The project site is not attracting C.R.Z. Notification, 2011.

22	Whether there is any Government Order/Policy relevant/relating to the site?	Yes. ➤ As per the Kerala Conservation of Paddy Land and Wetland Ordinance No. CO(MS) No. 40/2018/Revenue dated 03-02-2018 issued by Govt. of Kerala, the land is exempted and the copy of the same is enclosed with the application. ➤ The NOC for re-routing of the existing natural drain (thodu) from the Water Resources (MI) Department, Government of Kerala vide letter dated 28-07-2018 is enclosed with the application.
23	Forest land involved (hectares)	NO - There is no Forest land involved.
24	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders/directions of the Court, if any and its relevance with the proposed project.	NO - There is no any litigation pending against the project and/or land.

(II)Activity**1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.)**

Sr. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)	Yes	There will be permanent change in land use, land cover or topography including increase in intensity of land use. The proposed land is located at non SEZ plot within the existing Technopark Phase-3 campus at Attipra Village, Thiruvananthapuram District, Kerala. During construction phase, about 250 workers (daily average) will be at site. During operation phase on full occupancy of proposed complex, the maximum population expected is 25,000 persons (fixed/floating population) and hence there is increase in the intensity of land use. (Source: population is calculated based on NBC).
1.2	Clearance of existing land, vegetation and buildings?	Yes	For the development of the proposed project, the existing trees & different varieties of shrubs, herbs, grass & climbers will be cleared.
1.3	Creation of new land uses?	Yes	The new land use will be for Mixed Land Use (Master Plan) project.

1.4	Pre-construction investigations e.g. bore holes, soil testing?	Yes	Pre-construction Soil Investigation has been carried out by the agency (M/s Bore Tech Services, Kochi) for the site during the period of January, 2016 to April, 2016. As per the soil investigation report, the ground water level encountered between 0.1 m. to 1.25 m. below the existing ground level.
1.5	Construction works?	Yes	Mixed Land Use (Master Plan) building construction project which includes the Hotel Block, Multiplex Area, Apartment Block, Office Block, Retail/shopping area etc. Internal roads for movement inside the complex will be constructed.
1.6	Demolition works?	No	There is no any structures/building existing at site, hence demolition work not required within the site.
1.7	Temporary sites used for construction works or housing of construction workers?	Yes	Temporary sheds constructed for housing of construction workers (about 250 persons).
1.8	Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations	Yes	It is proposed to construct Mixed Land Use (Master Plan) building construction project which includes the Hotel Block, Multiplex Area, Apartment Block, Office Block, Retail/shopping area with supporting infrastructure facilities etc. Excavation of earthwork for the foundation of structures and excavation/cutting of earth for parking levels will be carried out. The total excavated/cutting of earth is about 45,230 cu.m. The top soil (about 1,225 cu.m.) which is fertile will be kept at site for landscaping work. The excavated soil will be used for back filling work (about 35,105 cu.m.) site leveling and remaining (8,900 cu.m.) for internal road construction purposes.
1.9	Underground works including mining or tunneling?	No	No underground works including mining / tunneling required except the foundation work for the structures.
1.10	Reclamation works?	No	The total excavated/cutting of earth is about 45,230 cu.m which will be consumed within the site and hence no reclamation work at site.
1.11	Dredging?	No	The proposed project is a building construction project and there is no dredging work required.
1.12	Offshore structures?	No	The proposed project is a building construction project and there is no offshore structures work required.
1.13	Production and manufacturing processes?	No	The proposed project is a building construction project. No production / manufacturing process involved.

1.14	Facilities for storage of goods or materials?	Yes	Separate raw material storage of cement and other construction materials will be made within the project premises. Bricks and steel will be laid in open.
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?	Yes	<p>Construction phase :- Solid waste generation from the project during construction phase will be about 100 Kg/day and domestic sewage will be about 15 KL/day. The non-biodegradable waste and other packaging material will be sold to the vendors. The bio-degradable solid waste will be disposed in a bio-bin system for microbial composting and a mobile STP for the treatment of domestic sewage from the labour colony.</p> <p>Operation phase :- SOLID WASTE ✓ The proposed project will generate about 3,462 Kg/day. ✓ The Solid Waste Management Rules, 2016 will be followed in the Solid Waste Disposal Mechanism at the site during operation phase. ✓ Collection & segregation within the site (bio-degradable waste (green bins), non-biodegradable waste (blue bins) and domestic hazardous waste (yellow bins). ✓ The recyclable waste like packaging material, paper etc. would be sold through. ✓ The Bio-degradable waste would be disposed through the bio-gas generation plant / bio-bin system to be installed within the site. ✓ The bio-gas generated will be utilized in the canteen / kitchen area and the manure generated will be utilized for green area development within the premises.</p> <p>e-Waste :- ✓ Discarded computer parts, monitor, key boards etc. constitutes e-waste and this waste will be stored in an earmarked area. ✓ E-waste will be generated after 4-5 years latency period ✓ Separate earmarked space will be provided for e-waste storage. ✓ E-waste will be disposed as per E Waste (Management & Handling) Rules.</p> <p>HAZARDOUS WASTE ✓ As per Hazardous Waste (Management & Handling Rules), the hazardous waste i.e., the used oil from D.G. sets,</p>

			<p>discarded oil filters and discarded batteries and stored separately and will be disposed to CPCB / SPCB authorized vendors only.</p> <p>✓ M/s Pefect Alloys, Chengannur, M/s Peejay Enterprises, Thiruvalla, M/s Excel Petrochemicals, Kochi and M/s Cee Jee Lubricants, Aluva are the approved recyclers for discarded batteries & used oil located in Kerala.</p> <p>Also, domestic hazardous waste would be generated like discarded paint drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles and syringes and contaminated gauge etc. generated at the household level.</p> <p>Effluent :- The total domestic sewage about 709 KL/day will be generated which will be treated through proposed Sewage Treatment Plants to be installed within the project premises.</p> <p>The treatment mechanism of sewage for tertiary level.</p>
1.16	Facilities for long term housing of operational workers?	No	<p>The proposed construction of mixed land use project and no accommodation facility is proposed for the operational workers.</p> <p>There will be construction of 310 residential units within the campus.</p>
1.17	New road, rail or sea traffic during construction or operation?	No	<p>No new road, rail or sea traffic during construction or operation will be made. Internal roads for movement inside the complex will be constructed.</p>
1.18	New road, rail, air waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc?	No	<p>No new road, rail, air waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc. will be made. Internal roads for movement inside the complex will be constructed.</p>
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?	No	<p>No closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements.</p>
1.20	New or diverted transmission lines or pipelines?	Yes	<p>Near to the project boundary, there is a HT line (110 kV) & tower.</p> <p>For shifting of 110 KV line, which is under process of sanction through Technopark and KSEB.</p> <p>Also, appropriate setbacks (horizontal / vertical) distances from the proposed buildings are provided as per KSEB</p>

			norms.
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?	No	No impoundment, damming, culverting or other changes to the hydrology of watercourses or aquifers. Previously, there is drain existing at site. The NOC for re-routing of the existing natural drain (thodu) from the Water Resources (MI) Department, Government of Kerala vide letter dated 28-07-2018 is obtained and the copy of the same is enclosed with the application.
1.22	Stream crossings?	No	There is no stream crossings at site.
1.23	Abstraction or transfers of water form ground or surface waters?	No	There is no provision of abstraction or transfers of water form ground or surface waters. The source of water is from Stored rain water and KWA/Technopark supply only.
1.24	Changes in water bodies or the land surface affecting drainage or run-off?	No	There is a small drain flowing near to the site. During the construction & operation phase this drain will be protected & maintained. Previously, there is drain existing at site. The NOC for re-routing of the existing natural drain (thodu) from the Water Resources (MI) Department, Government of Kerala vide letter dated 28-07-2018 is obtained and the copy of the same is enclosed.
1.25	Transport of personnel or materials for construction, operation or decommissioning?	Yes	Transportation of personnel / material during the construction and operation phase is envisaged. In construction phase, approx. 12-15 trucks / day is envisaged for transportation of construction materials.
1.26	Long-term dismantling or decommissioning or restoration works?	No	There is no long-term dismantling or decommissioning works at site. As part of the eco restoration, large number of saplings of native species would be planted.
1.27	Ongoing activity during decommissioning which could have an impact on the environment?	No	The proposed project is mixed land use (Master plan development) building construction project. The construction work will be start only after obtaining Environment Clearance.
1.28	Influx of people to an area in either temporarily or permanently?	Yes	The proposed project is building construction of mixed land use project and the proposed project would provide job facilities for about 4,700 persons in the operation phase and about 250 nos. (avg.) of labourers (skilled / unskilled) during construction phase. Further, on full occupancy of the project, the maximum population expected is 25,000 Persons (fixed/floating population) hence there will be influx of

			people to the project area.
1.29	Introduction of alien species?	No	The site is within the Technopark Phase-3 which is developed land. The proposed land is in Non-SEZ plot. the Technopark (SEZ) is developed land with IT offices. The detailed bio-diversity assessment study will be carried out and the report will be provided in the EIA/EMP report.
1.30	Loss of native species or genetic diversity?	Yes	Due to the proposed development, most of the existing trees will be cut from the proposed site. As part of the eco restoration, large number of saplings of native species would be planted. Due to the eco restoration, the impact to floral and faunal ecology will be short term.
1.31	Any other actions?	None	Nil

2. Use of Natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are non-renewable or in short supply):

S. No.	Information/checklist confirmation	Yes / No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)	Yes	<p>Plot area of 3.937 ha. is a undeveloped land with some of native species of shrubs, herbs, grass & climbers at site. The proposed land is reserved for development of mixed land use (Master plan) construction project.</p> <p>The site is within the Technopark Phase-3 which is developed land. The proposed land is in Non-SEZ plot. the Technopark (SEZ) is developed land with IT offices.</p>
2.2	Water (expected source & competing users) unit: KLD	Yes	<p>Construction phase :- The water consumption during construction phase is for meeting the domestic requirement (18 KLD) of the construction labourers and for building construction purposes water requirement (about 25 KLD). The source of water will be from stored rain water & Technopark / KWA (Public supply).</p> <p>Operation phase :- The total daily water consumption for the proposed project would be about 1,137 KLD (fresh 499 KLD + recycled 638 KLD) (taken @ 320 lpcd for hotel guests, 135 lpcd for residents, 45 lpcd for staffs, 70 LPCD for restaurant, and 15 lpcd for visitors/shoppers in shopping area). The sources of water during operation phase</p>

			<p>for the proposed project are: -</p> <ol style="list-style-type: none"> 1. Stored Rain Water (concurrent use) (Rainy Days) (Non-Flushing Req.), 2. Technopark / KWA water supply (Non-Rainy days) (Non-Flushing Req.) 3. Treated waste water from STP (Flushing, horticulture & HVAC Req.) (Entire Year). <p>The details regarding the water consumption related items are provided at daily water balance chart and daily water consumption chart attached.</p>
2.3	Minerals (MT)	Yes	The proposed project is mixed land use building construction (master plan) project. The minerals like building stones (minor minerals) will be used as per the estimated quantity during construction phase.
2.4	Construction material – stone, aggregates, sand / soil (expected source – MT)	Yes	<p>Steel : 95,740 MT M-Sand: 1,20,630 cu.m. Cement Blocks : 1,95,507 cu.m. Cement : 3,20,798 Bags</p> <p>The construction materials would be brought from local suppliers available in the area.</p>
2.5	Forests and timber (source – MT)	Yes	Wood shall be used for frame of doors however recyclable wood shall be used for doors.
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)	Yes	<p>Total Power Req. : 13 MVA Power Source: Kerala State Electricity Board.</p> <p>Total capacity of D.G. Sets proposed (1,600 kVA x 5 nos. + 1,250 kVA x 3 nos. + 1,000 kVA x 4 nos.) (as a standby power back up arrangement) Fuel – HSD (Ultra low sulphur)</p>
2.7	Any other natural resources (use appropriate standard units)	No	Nil

3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health.

S. N.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and water supplies)	No	This is an mixed land use building construction project and no storage of hazardous chemicals (as per MSIHC Rules) will be done, apart from diesel storage for D.G. sets which will be operated only during emergency and suitable arrangement will be adopted for the same. It will be stored in HDPE drums

			and kept in covered rooms under lock and key.
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)	No	Suitable drainage and waste management measures will be adopted in both the construction and operation phases which will restrict stagnation of water or accumulation of water within the site & the surroundings. This will effectively restrict the reproduction and growth of disease vectors. Further, appropriate sanitation facility will be provided at site during construction phase & operation phase. Good house keeping and hygienic measures will be followed during construction and operation phase to avoid any cause which can lead to occurrence of disease.
3.3	Affect the welfare of people e.g. by changing living conditions?	Yes	The proposed project is mixed land use (master plan) building construction project and thereby the standard of living index of the people around the project site will definitely improve. Also there will be various ancillary activities like convenient shops, medical shops, house hold items shops, transport facilities etc. attached to the project which will benefit the local people and change their living condition.
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,	No	Not applicable. There is no storage of any material within the site which will affect the vulnerable groups of people.
3.5	Any other causes	None	Nil

4. Production of solid wastes during construction or operation or decommissioning (MT/month)

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Spoil, overburden or mine wastes	No	No such spoil over burden or mine waste will be generated. The construction debris will be used for back filling purposes.
4.2	Municipal waste (domestic and or commercial wastes)	Yes	There will be about 100 kg of municipal solid waste during construction phase. The total Municipal solid waste to be generated from the proposed project would be about 3,462 kg/day on full occupancy during operation phase.
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)	Yes	The oil used in the D.G. sets (as a standby source of power) after certain of hours of operation, needs to be changed. This used oil from the D.G. Sets will be

			<p>sold to the CPCB approved recyclers. The list of authorized recyclers are M/s Perfect Alloys, Chengannur, M/s Peejay Enterprises, Thiruvalla, M/s Excel Petrochemicals, Kochi & M/s Cee Jee Lubricants, Aluva are the approved recyclers for discarded batteries & used oil located in Kerala.</p> <p>Used oil will be stored in HDPE drums in isolated covered facility.</p>
4.4	Other industrial process wastes	No	<p>The proposed project is a mixed land use (mater plan) building construction project.</p> <p>No other industrial process wastes will be generated / anticipated from the site.</p>
4.5	Surplus product	No	<p>The proposed project is a mixed land use (mater plan) building construction project.</p> <p>No surplus product will be generated / anticipated from the site.</p>
4.6	Sewage sludge or other sludge from effluent treatment	Yes	<p>The sludge from S.T.P. will be partially recycled for enhancing biological treatment and the excess sludge will be sent to the filter press and the de-canted sludge will be used as manure in green area during operation phase.</p>
4.7	Construction or demolition wastes	Yes	<p>Construction waste will be used for back filling purposes within the site.</p>
4.8	Redundant machinery or equipment	No	<p>There is no redundant machinery or equipment at site.</p>
4.9	Contaminated soils or other materials	No	<p>There is no contaminated soils or other materials at site.</p>
4.10	Agricultural wastes	No	<p>The proposed project is a mixed land use (mater plan) building construction project.</p> <p>There is no agriculture waste generated at site.</p>
4.11	Other solid wastes	Yes	<p>Some horticulture waste will be generated due and which will disposed accordingly.</p>

5. Release of pollutants or any hazardous, toxic or noxious substances to air (Kg/hr)

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities / rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources	Yes	<p>The operation of proposed project does not envisage any major air pollutant generating sources except D.G. Sets and vehicular movement during construction phase and operation phase. It is proposed to have D.G. set of 62.5 kVA x 2 nos. capacity during construction phase and 1,600 kVA x 5 nos. + 1,250 kVA x 3 nos. + 1,000 kVA x 4 nos. during</p>

			operation phase.
5.2	Emissions from production processes	No	Not applicable. No production activity envisaged.
5.3	Emissions from materials handling including storage or transport	Yes	This will be restricted to the construction phase and within the project site only.
5.4	Emissions from construction activities including plant and equipment	Yes	Dust will be generated during unloading of construction materials, drilling and grinding operations etc. This will be restricted to the construction phase and within the project site only. The other source of emission is from D.G sets of 62.5 kVA of 2 nos. which will be used during construction phase.
5.5	Dust or odours from handling of materials including construction materials, sewage and waste	Yes	During construction phase dust will be generated during the handling of construction materials. Sprinklers for suppression of dust will be installed during construction phase to minimize the dust generation. Wind breakers (i.e. barricades with GI sheets) at all vulnerable sides (all along the nearby buildings) or locations or using shade nets will be used for dust control.
5.6	Emissions from incineration of waste	No	Not applicable, no incineration proposed.
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)	No	There is no burning of waste in open air.
5.8	Emissions from any other sources	No	There is no emissions from any other sources.

6.0 Generation of Noise and Vibration, and Emissions of Light and Heat:

Sr. No.	Information / Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers	Yes	During construction, the machinery used for construction will be of highest standards and will be of reputed make and will adhere to international standards. These standards itself take care of noise generated from these machines. The construction involved mixed land use project, no heavy machinery is required. Hence insignificant impacts due to construction machinery are envisaged. The source of vibration from the project is during construction of the building. Pile foundation excavation through rotary drilling is the source of vibration. The

			<p>PPV levels from the rotary drilling for pile foundation would be maintained within 10 mm / sec. at 20 m. from the source. Therefore, there will not be any damage due to the vibration to be generated during foundation work to the nearby structures.</p> <p>Apart from this, the construction activity will be restricted to day time only.</p> <p>Noise will be created from operation of D.G. sets but all the D.G. sets shall be silent generators to restrict the noise within the permissible limit.</p> <p>Noise barriers all along the project boundary will be created. Also the marble / tile cutting area noise barrier enclosures will be created at appropriate height.</p>
6.2	From industrial or similar processes	No	There is no industrial or similar processes. The proposed project is a mixed land use (mater plan) building construction project.
6.3	From construction or demolition	Yes	Due to the various construction activities, there will be short term noise impacts in the immediate vicinity of the project site. The construction activity will include the following noise generation activities: Operation of D.G. Sets, concreting mixing and excavation.
6.4	From blasting or piling	No	No blasting / pilling will be adopted in the construction process.
6.5	From construction or operational traffic	Yes	Some amount of noise will be generated from vehicular movement in the construction and operation phase.
6.6	From lighting or cooling systems	Yes	The lighting proposed within the project area during construction phase and operation phase will be limited to the permissible lux level. The proposed project is mixed land use (master plan) building construction project thereby buildings will be centrally air conditioned (except residential tower & parking floors) and cooling system will be installed in project.
6.7	From any other sources	No	Nil

7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials	No	Used Oil from the D.G. Sets will be stored in HDPE drums and will be kept at a separate place and sold to CPCB approved recyclers. Therefore there is no

			risk of contamination due to used oil. The storage of used oil will be in such a way that no spillage of hazardous materials.
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)	No	Sewage will be disposed off through proposed Sewage Treatment Plants to be developed within the premises both during construction and operation phase. There is no chance of spillage or discharge of sewage and all the sewage will be chanalized properly through closed pipes to the STP. The sewage after treatment will be utilized for flushing, horticulture & cooling purposes within the premises.
7.3	By deposition of pollutants emitted to air into the land or into water	No	There is no emission except of D.G. sets. By use of HSD diesel, the emission from the D.G. sets will be within the norms.
7.4	From any other sources	No	Nil
7.5	Is there a risk of long term build up of pollutants in the environment from these sources?	No	Not applicable

8. Risk of accidents during construction or operation of the Project, which could affect human health or the environment

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances	Yes	The proposed project is building construction of mixed land use (master plan) project. The chances of explosions, spillages, fire are minimal. During construction all the labours will be provided with suitable personal protective equipment (PPE) as required under the health & safety norms. Training and awareness about the safety norms will be provided to all supervisors and labours involved in construction activity. An agreement will be signed with the contractor which will clearly deals with the safety aspects during construction. No major hazardous waste is being stored within the project site. No Industrial or process activity is involved in this project hence chances of chemical hazards and accidents are minimal. However, suitable fire fighting measures will be provided.
8.2	From any other causes	No	Not applicable
8.3	Could the project be affected by natural disasters causing environmental damage (e.g.	No	Structural design aspects as per the seismic codes – IS 1893 (2002), IS 13920 (1993) and IS 456 (2000) as applicable

	<p>floods, earthquakes, landslides, cloudburst etc)?</p>	<p>would be incorporated in our project.</p> <p>Floods - As per the Map prepared by State Emergency Operations Centre (SEOC), Department of Disaster Management, Govt. of Kerala, the project site is not affected by floods causing environment damage.</p> <p>Earthquakes/Cloudburst - As per seismic classification, the project site falls in Zone-III. No reported cloudburst in the area.</p> <p>Landslide - Also, there is no hilly area around the project site, therefore no chance of landslide at site.</p>
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9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality.

S. No.	Information/Checklist confirmation	Yes / No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	<p>Lead to development of supporting utilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.:</p> <ul style="list-style-type: none"> • Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.) • housing development • extractive industries • supply industries • other 	<p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p> <p>No</p>	<p>Appropriate infrastructure like roads, power supply, solid & hazardous waste management and waste water treatment will be developed within the site so that chances of occurrence of any adverse impacts are minimized.</p> <p>During construction skilled, unskilled and professional work force including temporary and permanent employees shall be hired locally in order to generate the employment to the local people. While during the project operation stage for the purpose of day-to-day maintenance, workers will be employed. Moreover, more employment will be created as a result of positive induced development in the immediate vicinity of project site.</p> <p>Residential apartments (310 units) will be constructed in the project.</p> <p>No extractive industries</p> <p>No supply industries</p> <p>Not applicable</p>
9.2	<p>Lead to after-use of the site, which could have an impact on the environment</p>	<p>No</p>	<p>Not applicable</p>

9.3	Set a precedent for later developments	No	Not applicable
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects.	No	Not applicable

(III) Environmental Sensitivity

Sr. No.	Areas	Name/Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	Yes	<ul style="list-style-type: none"> • Trivandrum Zoo - about 9 km. (SE) • Thampurampara View Point - about 14 km. (NE) • Parasurama, Siva, Brahma and Matsya Temple, Thiruvallam, Thiruvananthapuram - about 14 km. (S) • Kadinamkulam lake - about 6.5 km. (NW) (Important Coastal and Marine Diversity Area). <p>(Information Source : Google Earth aerial distance)</p>
2	Areas which are important or sensitive for ecological reasons - Wetlands, water courses or other water bodies, coastal zone, biospheres, mountains, forests	Yes	<p>Water bodies :-</p> <ul style="list-style-type: none"> • Drain (Thettiyar) – near to site • Thodu (“Parvathy-Puthanaar”) - about 1.50 km. (W) • Arabian sea - about 2.50 km. (SW) • Aakulam Lake - about 3.5 km (SE) • Kadinamkulam lake - about 6.5 km. (NW) • Shangumugham Beach - about 8.5 km. (SE) • Karmana River - about 12.5 km. (SE) • Killi River - about 11 km. (SE) • Aruvikkara Dam - about 15.5 km. (NE) • Thumba Coastal Zone – 2.2 Km (W) • Amayizhanchan thodu – 5.70Km(SE) <p>(Information Source : Google Earth aerial distance)</p>
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	Yes	<ul style="list-style-type: none"> • Kadinamkulam lake - about 6.5 km. (NW) • Arabian sea - about 2.50 km. (SW) <p>(Information Source : Google Earth aerial distance)</p>
4	Inland, coastal, marine or underground waters	Yes	<ul style="list-style-type: none"> • Thodu (“Parvathy-Puthanaar”) - about 1.50 km. (W) • Arabian sea - about 2.50 km. (SW) • Aakulam Lake - about 3.5 km (SE) • Kadinamkulam lake - about 6.5 km. (NW) <p>(Information Source : Google Earth aerial distance)</p>
5	State, National boundaries	No	Kerala-Tamilnadu State Boundary - about 34 km. (SE)
6	Routes or facilities used by the public for access to recreation or other	Yes	<ul style="list-style-type: none"> • N.H. 66 - about 300 m (W) • Railway line - about 750 m (W) • Thiruvananthapuram Int. Airport - about 8 Km (S)

	tourist, pilgrim areas		<ul style="list-style-type: none"> •Kazhakootam Railway Station - about 1.10 Km (NW) •Thambanoor Railway station – about 10.50 Km (S) •Thambanoor KSRTC Sttion – about 10.30 Km (S) 																																																																					
7	Defense installations	Yes	<ul style="list-style-type: none"> • Military Area, Pangode, Trivandrum - about 13 km. (SE) • Military area, Aakulam - about 4.5 km. (SE) • Southern Air Command and Control Area - about 4.2 km. (SE) • Trivandrum Air Force base area - about 8.70 km. (SW) • Air force Station, Trivandrum - about 10.90 km. (SW) • BSF Camp - about 11.25 km. (SW) • Brahmos Aerospace Limited, Airport Road, Chekai Beach - about 7 km. (SE) <p>(Source : Google Earth aerial distance)</p>																																																																					
8	Densely populated or built-up area	Yes	The project site is within the suburb of Thiruvananthapuram Corporation & hence densely populated.																																																																					
9	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	Yes	<p>There are several Hospital, school, places of worship, community facilities etc. are available within the 15 km. radius. The some of the details are given below :-</p> <table border="1"> <thead> <tr> <th>Sr. No.</th> <th>Name</th> <th>Approx. Distance & Direction</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Temples of Parasurama (Thiruvallam) (Protected Monument by ASI)</td> <td>14 km., (S)</td> </tr> <tr> <td>2.</td> <td>ISRO Staff quarters</td> <td>2.5 km. (SE)</td> </tr> <tr> <td>3.</td> <td>VSSC Housing colony</td> <td>1.2 km. (SW)</td> </tr> <tr> <td>4.</td> <td>VSSC Training Centre</td> <td>4 km. (S)</td> </tr> <tr> <td>5.</td> <td>Chandrasekharan Nair Stadium & University Stadium</td> <td>9 km. (SE)</td> </tr> <tr> <td>6.</td> <td>Padmanabha Swami Temple</td> <td>10 km. SE</td> </tr> <tr> <td>7.</td> <td>Thiruvananthapuram Int. Airport</td> <td>8 km. (SE)</td> </tr> <tr> <td>8.</td> <td>Vikram Sarabhai Space Centre</td> <td>3.5 km. (SW)</td> </tr> <tr> <td>9.</td> <td>Space Museum</td> <td>2 km. (SW)</td> </tr> <tr> <td>10.</td> <td>CISF Colony</td> <td>1 km. (SW)</td> </tr> <tr> <td>11.</td> <td>Trivandrum Int. Stadium</td> <td>2.5 km. (NE)</td> </tr> <tr> <td>12.</td> <td>Madre De Deus Church</td> <td>6.5 km. (SE)</td> </tr> <tr> <td>13.</td> <td>College of Engineering Trivandrum (CET)</td> <td>3 km. (SE)</td> </tr> <tr> <td>14.</td> <td>University of Kerala, Karyavattom campus</td> <td>1.5 km. (NE)</td> </tr> <tr> <td>15.</td> <td>M.G. College, Trivandrum</td> <td>7 km. (SE)</td> </tr> <tr> <td>16.</td> <td>Sree Chitra Tirunal Institute for Medical</td> <td>6 km. (SE)</td> </tr> <tr> <td>17.</td> <td>Kazhakuttam Rly. Station</td> <td>1 km. (NW)</td> </tr> <tr> <td>18.</td> <td>Kochuveli Rly. Station</td> <td>4.5 km. (SE)</td> </tr> <tr> <td>19.</td> <td>National Game Village, Kazhakuttam</td> <td>2 km. (NW)</td> </tr> <tr> <td>20.</td> <td>CISF Ground</td> <td>1 km. (SW)</td> </tr> <tr> <td>21.</td> <td>Happyland Water Theme & Amusement Park</td> <td>13 km. (NE)</td> </tr> <tr> <td>22.</td> <td>Office of the Dept. of Atomic</td> <td>12 km. (SE)</td> </tr> </tbody> </table>	Sr. No.	Name	Approx. Distance & Direction	1.	Temples of Parasurama (Thiruvallam) (Protected Monument by ASI)	14 km., (S)	2.	ISRO Staff quarters	2.5 km. (SE)	3.	VSSC Housing colony	1.2 km. (SW)	4.	VSSC Training Centre	4 km. (S)	5.	Chandrasekharan Nair Stadium & University Stadium	9 km. (SE)	6.	Padmanabha Swami Temple	10 km. SE	7.	Thiruvananthapuram Int. Airport	8 km. (SE)	8.	Vikram Sarabhai Space Centre	3.5 km. (SW)	9.	Space Museum	2 km. (SW)	10.	CISF Colony	1 km. (SW)	11.	Trivandrum Int. Stadium	2.5 km. (NE)	12.	Madre De Deus Church	6.5 km. (SE)	13.	College of Engineering Trivandrum (CET)	3 km. (SE)	14.	University of Kerala, Karyavattom campus	1.5 km. (NE)	15.	M.G. College, Trivandrum	7 km. (SE)	16.	Sree Chitra Tirunal Institute for Medical	6 km. (SE)	17.	Kazhakuttam Rly. Station	1 km. (NW)	18.	Kochuveli Rly. Station	4.5 km. (SE)	19.	National Game Village, Kazhakuttam	2 km. (NW)	20.	CISF Ground	1 km. (SW)	21.	Happyland Water Theme & Amusement Park	13 km. (NE)	22.	Office of the Dept. of Atomic	12 km. (SE)
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	Energy, Poojappura Main Road	
23.	National Highway 66	0.3 km. (W)
24.	Technopark	1.06 km (N)
25.	Purunguzhi Railway Station	12.25 km(N)
26.	Murukkumpuzha Railway station	9 km. (N)
27.	Kaniyapuram Railway station	5.10 km (N)
28.	Kadinakulam Lake	10 km (N)
29.	Kerala Cricket Association Stadium	9 km. (N)
30.	English Indian Clay Limited	10 km. (N)
31.	MGM Arts and Science College	6.25 km.(N)
32.	Moulana Azad Secondary School	6.50 km (N)
33.	LNCEP Athletic Ground	2.5 km. (NE)
34.	Sainik School	3.74 km (N)
35.	Power grid	5.12 km (N)
36.	KSEB Sub Station 220 KV	6 km. (N)
37.	Jawaharlal Nehru Botanical garden	6.13 Km (N)
38.	Kottakal Arya vaidya Sala	4 km (N)
39.	CSI Mission Hospital	3.12 km (N)
40.	St. Xavious College	3.83 km (NW)
41.	Kinfra Water treatment Plant	2.60 km(N)
42.	Marian Engineering college	2.5 km (NW)
43.	Fathima hospital	3 km.(NW)
44.	Jyothis Central School	2 km (NW)
45.	A J Hospital	2.25 km (N)
46.	Saji Hospital	1.35 km (N)
47.	Attinkuzhi Muthumari Amman temple	0.9 km. (NW)
48.	Attinkuzhi Devi Temple	500 (W)
49.	Hanuman Temple	350m (NW)
50.	Attikuzhi thampuram temple	700 m (N)
51.	Salafi Daqwa Center	700 M (N)
52.	AG church Thumba	2.5 Km(W)
53.	Pallithura church	2.30Km (W)
54.	Attukal Devi Temple	12 Km (S)
55.	Kerala Govt. Secretariat	9.50 Km (S)
56.	Kerala legislative Assembly	8.50 Km (S)
57.	KSEB Section office	871 m (S)
58.	TSC Hospital	1 Km (S)
59.	G. H S School	1.10 Km(S)
60.	Janatha Clinic And Ayurvedic Center	1.05 Km(S)
61.	UST Global IT Service Company	1.34KM(S)
62.	Don Bosco institute of Spirituality	1.60Km(S)
63.	Infosys campus (I.T.)	1.70Km(S)
64.	CSI church Kulathoor	2.40Km(S)
65.	Kuzhivilakathu thampuratan Temple	2Km(S)
66.	The School of Good Shaperd	2.50 km(S)
67.	APJ Abdul Kalam technological university	2.90Km(SE)
68.	College of Engineering	2.80Km(SE)
69.	Layola School	3.51KM(SE)
70.	ICAR – Center Tuber Crops Research Institute	3.70Km(SE)
71.	Marry Nilayam Senior Secondary School	4,60Km (SE)
72.	Thiruvananthapuram Corporation office Zonal	4.70Km (SE)
73.	Dr. Ambedkar Memorial girls School	2.89Km(S)
74.	St. gregarious Memorial central Public School	2.75Km(S)
75.	NATPAC	4.45 Km (S)

76.	Indian Institute of diabetes	4.40 KM(S)
77.	Chest Disease hospital	5 km(S)
78.	SAT Hospital facility Center	5.70Km(S)
79.	Sree Chithira Thirunal Institute of Medical Sciences	5.92Km(SE)
80.	Sree Avittom Thirunna hospital	5.80Km(SE)
81.	Govt. college of Pharmacy	5.60Km(SE)
82.	Govt. Medical College	5.55 Km(SE)
83.	Childrens park	5.91Km(S)
84.	Kerala state bio Diversity Board	6.60Km(SE)
85.	TRIDA	6.30Km(SE)
86.	KIMS Hospital	5.10Km (S)
87.	Kadakampilly PHC	5.05Km (S)
88.	Lords hospital	5.73Km(S)
89.	Indian School of commerce	6.10Km(S)
90.	Nirmala Hospital	6.01Km(SW)
91.	Cosmo Politian hospital	7.10Km (S)
92.	Kerala PSC	7.45Km(SE)
93.	Sree uthradam Thirunal hospital	7.55Km(SE)
94.	Kerala State Civil Service Academy	8.25Km(SE)
95.	Kerala Women's Commission	8.44Km(SE)
96.	Kerala State Science and technology Museum	8.55Km(SE)
97.	Kerala State human rights commission	8.70KM(SE)
98.	Institute of Management in Govt.	8.50Km(SE)
99.	Pettha Railway Station	8.70Km(S)
100.	Ananthapuri hospital	8.64Km(S)
101.	Trivandrum District court	9.10Km(S)
102.	Govt. VHSS for girls	8.50KM(S)
103.	Dist. Medical office	8.70Km(S)
104.	Directorate of health Services	8.90Km(S)
105.	General Hospital	8.50Km(S)
106.	University college	9.10Km(S)
107.	Chandrasekaran Nair Stadium	9.15Km(S)
108.	Kerala university Stadium	9.00Km(SE)
109.	Napier Museum	9.40Km(SE)
110.	Kanakakkunnu Palace	10Km(SE)
111.	Nadavanam Police camp	9.50Km(SE)
112.	Keralam Museum of History and Heritage	9.30Km(SE)
113.	Police Head Quarter	9.90Km(SE)
114.	Raj Bhavan	10.Km(SE)
115.	Kerala Water Authority	9.80Km (SE)
116.	Jimmy George Indore Stadium	10.Km (SE)
117.	Geethanjali ENT Hospital	10KM (S)
118.	Central Excise and customs Commissionerate	9.80Km(S)
119.	All Saints college	6.46KM(SW)
120.	Thiruvananthapuram Central Railway Station	10.55Km(SE)
121.	Muttathara College of Engineering	11.10Km(SW)
122.	Consulate General of UAE	10.90Km(S)
123.	Central prison Poojapura	11.90Km(S)
124.	Snake Park	12.70Km(S)
125.	Police training college	10.70kM(S)
126.	College of Architecture	10.Km(S)
127.	All India Radio Trivandrum	10.54Km(S)
128.	PRS Hospital	11.50Km(SW)
129.	Women Prison and correction Home	10.70KM(S)

130.	STP Muttathara	11.50Km (SW)
131.	Beema palli Mosque	11.90Km(SW)
132.	Govt. homoeopathic Medical college	11.60Km(S)
133.	Special Sub jail	12.10km(s)
134.	Govt. Ayurveda hospital	12.30KM (SE)
135.	Army Public School	12.80Km(SE)
136.	Trivandrum Corporation office	13.40Km(SE)
137.	KSEB Sub Station 120 KV	13.92Km(S)
138.	BNV Hospital	14.50KM(SW)
139.	KINFRA international Apparel park	3Km(NW)
140.	Puthenthope Hospital	5Km(N)
141.	PHC Azhoor	12Km(N)
142.	Musliyar College of Engineering	14Km(N)
143.	Sree narayana Guru Mandiram	2.20Km(E)
144.	Thalavara temple	1.75Km(E)
145.	Mahadeva Mandir	180m(S)
146.	PMG Church	1.05KM(E)
147.	Baratheeya vidya Bavan	1.70Km(E)
148.	Medical College health center	2.70Km(E)
149.	SN College Chempazhanthi	3.40(EN)
150.	Providance hospital	12.60Km(ES)
151.	Govt. College Nedumanagadu	13.40Km(E)
152.	RIMS Hospital	14Km(E)
153.	East Fort bus stand	10.50Km(S)
154.	Nippon Toyota building	200 m. (W)
155.	Autopark (Bosch Car showroom)	200 m. (W)
156.	Athinkuzhi Public Library	350 m. (W)
157.	Sri Sathya Sai Seva Samithi, Kazhakutam	400 m. (W)
158.	Attipara Ayurvedic Hospial	400 m. (W)
159.	Kailasam Lodge	350 m. (SW)
160.	Srigurudeva Vegetable Fruit Shop	325 m. (SW)
161.	Nascent Entertainment	310 m. (SW)
162.	Ashwarya Boutique	235 m. (SW)
163.	Cafe Club	180 m. (SW)
164.	Turf	165 m. (SW)
165.	Anand Bakery & Store	190 m. (SW)
166.	Trackon Courier Office	230 m. (SW)
167.	Alana Casa Day Spa	250 m. (SW)
168.	Puttukuda Restaurant	220 m. (SW)
169.	Maxican Mix Foodcourt	230 m. (SW)
170.	Alif Poultry Farm	310 m. (SW)
171.	Microtek System & Solution Building	315 m. (SW)
172.	Sheela Homely Food & Hostel	340 m. (SW)
173.	Friends Auto Electrical Works	350 m. (SW)
174.	Madhu Upholstry & Cushion Work shop	360 m. (SW)
175.	Lall's Home Galleria	375 m. (SW)
176.	Magnus Motors Showroom	315 m. (SW)
177.	MCBS Kala Gramam	365 m. (SW)
178.	Sri Sivanandan Yoga & Meditation Centre	410 m. (SW)
179.	SRG Bakery & Snacks park	370 m. (SW)
180.	Aswathy Batteries	430 m. (SW)
181.	Kaveri Infotech System	430 m. (SW)
182.	Aditya Tyre Works Mobile Puncture	490 m. (SW)
183.	South Indian Bank ATM	490 m. (SW)

			<table border="1"> <tr> <td>184.</td> <td>Fabriclean Kulathoor Branch</td> <td>510 m. (SW)</td> </tr> <tr> <td>185.</td> <td>S.N. Auto Reptair Works</td> <td>525 m. (SW)</td> </tr> <tr> <td>186.</td> <td>Nandoos Bakery</td> <td>540 m. (SW)</td> </tr> <tr> <td>187.</td> <td>South Indian Bank</td> <td>560 m. (SW)</td> </tr> <tr> <td>188.</td> <td>Aditya Furniture</td> <td>610 m. (SW)</td> </tr> <tr> <td>189.</td> <td>Brahmos Aerospace Limited, Airport Road, Chekai Beach</td> <td>7 km. (SE)</td> </tr> </table> <p>(Source : Google Earth aerial distance)</p>	184.	Fabriclean Kulathoor Branch	510 m. (SW)	185.	S.N. Auto Reptair Works	525 m. (SW)	186.	Nandoos Bakery	540 m. (SW)	187.	South Indian Bank	560 m. (SW)	188.	Aditya Furniture	610 m. (SW)	189.	Brahmos Aerospace Limited, Airport Road, Chekai Beach	7 km. (SE)
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189.	Brahmos Aerospace Limited, Airport Road, Chekai Beach	7 km. (SE)																			
10	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	Yes	<ul style="list-style-type: none"> • Arabian sea - about 2.50 km. (SW) • Kadinamkulam lake - about 6.5 km. (NW) • Trivandrum Zoo and Museum- about 9 km. (SE) <p>(Source : Google Earth aerial distance)</p>																		
11	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)	No	<p>No critically polluted area is located within 15 km. radius.</p> <p>As per CEPI (Comprehensive Environmental Pollution Index) published by CPCB, Cochin Grater is the only area in state of Kerala comes under critically polluted area</p>																		
12	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	No	<p>Structural design aspects as per the seismic codes – IS 1893 (2002), IS 13920 (1993) and IS 456 (2000) as applicable would be incorporated in our project.</p> <p><u>Earthquakes/Cloudburst</u> - As per seismic classification, the project site falls in Zone-III. No reported cloudburst in the area.</p> <p><u>Landslide/Erosion</u> - Also, there is no hilly area around the project site, hence there is no chance of landslide/Erosion at site.</p> <p><u>Floods or extreme or adverse climatic conditions</u> - As per the Map prepared by State Emergency Operations Centre (SEOC), Department of Disaster Management, Govt. of Kerala, the project site is not affected by floods causing environment damage. As per the map, the flooding affected area marked by the Department is outside the 0.5 km. away from the proposed site.</p> <p>Also, there is no extreme or adverse climatic conditions nearby the area.</p>																		

(IV). Proposed Terms of Reference for EIA studies

Ans. The project is having built-up area about 2,71,164.4 sq. m. which is more than 1,50,000 sq.m. and therefore, as per EIA Notification, 2006, the draft Terms of Reference (ToR) for EIA Study is attached with the application.

"I hereby give an undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance given, if any to the project will be revoked at our risk and cost.

Place: Thiruvananthapuram

M/s Dragonstone Realty Pvt. Ltd.



R. ANIL KUMAR



APPENDIX II

(See paragraph 6)

FORM-1 A

(Only for construction projects listed under item 8 of the Schedule)

(Environmental Clearance for Proposed Expansion of Mixed Land Use Building Construction Project by M/s Dragonstone Realty Pvt. Ltd.)

at Technopark Phase-3 Campus in Re-Sy. Nos. 290/2 part, 290/3 part, 290/4 part, 290/5 part, 290/6 , 290/7 part, 291/2 part, 291/4 part, 291/5 part, 291/6 part, 291/7, 291/8, 291/9 part, 291/11 part, 291/12, 291/13, 291/14, 291/15, 291/16, 291/17, 291/18, 291/19, 292/1, 292/2, 292/3, 292/4 part, 292/5 part, 292/6 part, 292/8 part, 292/9, 292/10, 295/1 part, 295/2 part, 295/3 part, 295/8 part, 295/9, 295/10, 295/11 part, 295/12, 295/13, 295/14, 295/17 part, 295/19 part, 295/23 part, 296/1 part, 296/2 part, 296/5 part, 296/6 part, 296/7, 296/8, 296/9, 296/10, 296/11, 296/12, 296/13, 296/14, 296/15, 296/16, 296/17, 296/18, 296/19, 297/8 part, 297/18 part, 297/19 part, 292/2 part, 292/3 part, 292/8 part, 292/9 part, 292/10 part, 292/11 part, 292/12 part, 292/14 part, 292/18 part, 295/14 part, 295/15, 295/16, 295/17 part, 295/18 part, 296/10 part, 296/18 part, 296/19 part, Village Attipra, Taluk & District Thiruvananthapuram, Kerala.

CHECK LIST OF ENVIRONMENTAL IMPACTS

(Project proponents are required to provide full information and wherever necessary attach explanatory notes with the Form and submit along with proposed environmental management plan & monitoring programme)

1.0 LAND ENVIRONMENT

(Attach panoramic view of the project site and the vicinity)

1.1. Will the existing land use get significantly altered from the project that is not consistent with the surroundings? (Proposed land use must conform to the approved Master Plan / Development Plan of the area. Change of land use if any and the statutory approval from the competent authority be submitted). Attach Maps of (i) site location, (ii) surrounding features of the proposed site (within 500 meters) and (iii) the site (indicating levels & contours) to appropriate scales. If not available attach only conceptual plans.

Ans. The proposed land is located at non SEZ plot within the existing Technopark Phase-3 campus at Attipra Village, Thiruvananthapuram District, Kerala.

The external services like storm water, road network, water supply etc. are available in the project vicinity.

The vicinity map and the satellite map showing the location of the project site & it's surroundings is provided in the pre-feasibility Report (PFR). The conceptual plan showing the location of STP, Solid waste processing area, landscape area, building blocks, pavement area, entry & exit to the site, internal traffic circulation within the site etc. is enclosed with the application.

1.2. List out all the major project requirements in terms of the land area, built up area, water consumption, power requirement, connectivity, community facilities, parking needs etc.

Ans. The major project requirements for this construction projects are mentioned below:-

Objective of the project	=	Mixed Land Use Project
Facilities proposed	=	Commercial Retail shopping area / Multiplex, hotel, offices & residential apartments with supporting infrastructure facilities.
Total plot area	=	3.937 ha.
Total Built-up area	=	2,71,164.4 sq.m. (approved built-up area 1,33,491 sq.m. + additional built-up area 1,37,673.4 sq.m.)
Expected project cost	=	Rs. 800 Crores
Total Water Req.	=	1,137 KL/day (fresh 499 KLD + recycled 638 KLD)
Domestic water Req.	=	886 KL/day (flushing + non-flushing)
Sewage Generation	=	709 KL/day
Sewage Disposal Facility	=	Sewage Treatment Plant & Recycling
Treated Water Available from STP	=	638 KL/day
Source of Water	:-	

- 1. Stored Rain Water (concurrent use) (Rainy Days) (Non-Flushing Req.),**
- 2. Technopark / KWA water supply (Non-Rainy days) (Non-Flushing Req.)**
- 3. Treated waste water from STP (Flushing, horticulture & cooling Req.) (Entire Year).**

The details of the daily water requirement balance chart (rainy days & non – rainy days) is provided in PFR. Also attached is the activity wise population & daily water consumption details are attached in the PFR.

Total Power Requirement	=	13 MVA
Source of Power	=	Kerala State Electricity Board & D.G. Sets (standby)
Capacity of D.G. Sets	=	1,600 kVA x 5 nos. + 1,250 kVA x 3 nos. + 1,000 kVA x 4 nos.

Connectivity :-

The access to the project site is from 15 m. wide internal road of Technopark Phase-3 campus and this road is well connected to N.H. 66 Bypass Road located at about 200 m. (west side) from the project site.

The nearest railway station (Kazhakkootam Railway Station) is about 1.5 km (NW) (road distance) and Trivandrum International Airport is about 10 km (S) (road distance) away from the project site.

1.3. What are the likely impacts of the proposed activity on the existing facilities adjacent to the proposed site? (Such as open spaces, community facilities, details of the existing land use, disturbance to the local ecology).

Ans. The proposed land is located at non SEZ plot within the existing Technopark Phase-3 campus at Attipra Village, Thiruvananthapuram District, Kerala.

The external services like storm water, road network, water supply etc. are available in the project vicinity. There would be no negative impacts on the existing facilities adjacent to the proposed site. The proposed project has provision for (i) Treatment of sewage and it's entire recycling thereby there is no discharge to the external drainage system or to the land or to any water body. (ii) By the use of stored rain water and the use of treated water from STP, the use of fresh water from the KWA (public supply) / Technopark will be reduced. The source of water for the project is from Technopark dedicated water supply scheme available for the proposed project and hence no impact to the water supply to the public. The project has obtained an assurance letter for assured water supply for 2.5 MLD from Kerala Water Authority (KWA) vide letter dt.17-04-2018. (iii) The project has made provision for roof rain water storage tanks which will use as source of water during rainy days (concurrent use) and stored for non rainy days. (iv) By the Bio-gas generation plant / bio-bin system to be installed within the project site, the bio-degradable solid waste disposal will be managed within the site thereby no additional loading to the Common Solid waste disposal system. (v) There are various native trees, shrubs & herbs etc. existing at site and for the development of the proposed site these will be cleared from the site. As part of the eco restoration, large number of saplings of native species would be planted. Due to the eco restoration, the impact to floral and faunal ecology will be short term and the ecology will be enhanced.

1.4. Will there be any significant land disturbance resulting in erosion, subsidence & instability? (Details of soil type, slope analysis, vulnerability to subsidence, seismicity etc may be given).

Ans. There will be land disturbances due to the proposed construction activities. There are chances of soil erosion from the project site during rainy days. Necessary protection measures for soil erosion will be made. The project site falls within Zone-III as per the seismological classification map of India. Further details provided in the Environment Impact Assessment Report / Environment Management Plan (EIA/EMP Report) which will be prepared only after approval of Terms of Reference.

There is no history of subsidence of the project site or it's surroundings in the past. Pre-construction Soil Investigation has been carried out by the agency (M/s Bore Tech Services, Kochi) for the site during the period of January, 2016 to April, 2016. As per the soil investigation report, the ground water level encountered between 0.1 m. to 1.25 m. below the existing ground level. The soil investigation report is enclosed with the PFR.

1.5. Will the proposal involve alteration of natural drainage systems? (Give details on a contour map showing the natural drainage near the proposed project site)

Ans. Previously, there is drain existing at site. The NOC for re-routing of the existing natural drain (thodu) from the Water Resources (MI) Department, Government of Kerala vide letter dated 28-07-2018 is obtained and the copy of the same is enclosed with the application.

The proposed development does not affect the drainage pattern of the site and surroundings. The highest elevation of the site area is 5.8 m MSL (SW) and lowest level is 3.8 m MSL (NW). As per the contour drawing, the slope



from south west to north west & centre of the property. The site level difference is about +2 m. No habitant are located in the project site. The topographical contour map of the project site is enclosed with the application.

1.6. What are the quantities of earthwork involved in the construction activity-cutting, filling, reclamation etc. (Give details of the quantities of earthwork involved, transport of fill materials from outside the site etc.)

Ans.Excavation of earthwork for the foundation of structures and excavation/cutting of earth for parking levels will be carried out. The total excavated/cutting of earth is about 45,230 cu.m. The top soil (about 1,225 cu.m.) which is fertile will be kept at site for landscaping work. The excavated soil will be used for back filling work (about 35,105 cu.m.) site leveling and remaining (8,900 cu.m.) for internal road construction purposes.

1.7. Give details regarding water supply, waste handling etc. during the construction period.

Ans. Construction phase – It is expected to have about 250 workers (average) during construction phase. The water requirement during construction period is from the Technopark / KWA water supply & stored rain water. The domestic water requirement is expected to be 18 KL per day and for construction purposes would be about 25 KL per day. Further, by using of ready mix concrete (RMC) & curing agents, the water will be reduced substantially. The major part of the construction water requirement will be fully consumed. The sewage generation from labourers during construction period would be about 15 KL/day and this quantity of domestic waste would be disposed through a mobile STP to be installed at the labour colony. The treated sewage will be used for meeting the landscape requirement. The non bio-degradable waste, the empty cement bags, other packaging materials etc. would be disposed to the vendors. The bio-degradable solid waste from the labour colony will be disposed in a bio-bin system for microbial composting from the labour colony.

1.8. Will the low lying areas & wetlands get altered? (Provide details of how low lying and wetlands are getting modified from the proposed activity)

Ans. As per the Kerala Conservation of Paddy Land and Wetland Ordinance No. CO(MS) No. 40/2018/Revenue dated 03-02-2018 issued by Govt. of Kerala, the land is exempted and the copy of the same is enclosed with the application.

1.9. Whether construction debris & waste during construction cause health hazard? (Give quantities of various types of wastes generated during construction including the construction labour and the means of disposal)

Ans. The construction waste consists of earth, debris concrete, lumber, masonry and cardboards which are about 35%, 15%, 12% and 10% respectively. Construction waste would be disposed for backfilling purposes. The bio-degradable food waste from the construction labourers will be disposed in a bio-bin system for microbial composting from the labour colony. The non-biodegradable waste will be stored and sold to the vendors. The packaging material like cement bags etc. would also be sold to the vendors.

2.0 WATER ENVIRONMENT

2.1. Give the total quantity of water requirement for the proposed project with the breakup of requirements for various uses. How will the water requirement met? State the sources & quantities and furnish a water balance statement.

Ans. The details are provided below :-

Construction phase :-

The water requirement during construction phase is for construction purposes and for the domestic water requirements of the construction workers. The construction water requirement is expected to be 25 KL/day and for domestic purposes is estimated to be 18 KL/day. The water requirement during the construction phase will be met from the stored rain water & Technopark / KWA water supply.

Operation phase :-

The total daily water requirement, water balance chart and source of water during the operation phase of the project calculated on the basis of full occupancy are mentioned below: -

Total Water Req.	=	1,137 KL/day (fresh 499 KLD + recycled 638 KLD)
Domestic water Req.	=	886 KL/day (flushing + non-flushing)
Sewage Generation	=	709 KL/day
Sewage Disposal Facility	=	Sewage Treatment Plant & Recycling
Treated Water Available from STP	=	638 KL/day

The sources of water during operation phase for the proposed project are: -

1. Stored Rain Water (concurrent use) (Rainy Days) (Non-Flushing Req.),
2. *Technopark / KWA* water supply (Non-Rainy days) (Non-Flushing Req.)
3. Treated waste water from STP (Flushing, horticulture & cooling Req.) (Entire Year).

The project has obtained assurance letter for assured water supply for 2.5 MLD from Kerala Water Authority (KWA) vide letter dt.17-04-2018 which is enclosed with the application.

The project has made provision for rain water storage tanks will be used for the concurrent use of water & Technopark / KWA water supply during non rainy days. Hence the availability of water is ensured.

The Water Balance Chart (rainy days & non-rainy days) is attached. The activity wise population & daily water consumption details are enclosed.

2.2. What is the capacity (dependable flow or yield) of the proposed source of water?

Ans. Details are given below :-

Construction Phase

During construction phase, the source is from the *Technopark / KWA* water supply & recycled water from STP & rain water storage tanks. With the estimated construction phase water requirement of about 43 KL/day (25 KDL + 18 KLD) extending for a period of about 84 months, this source is dependable.

Operation Phase

The source of water for the proposed project during operation phase will be water from the proposed rain water collection tanks within the site of for meeting the water requirement for non-flushing (concurrent use during rainy days). Also, it proposed to construct STP for the treatment of domestic sewage. During non-rainy days, the source of water is from Technopark / KWA water supply for meeting the non-flushing water requirement. The treated water from STP would meet the water requirement for flushing, horticulture & cooling requirements. Therefore by these sources and by an integrated water management approach, a dependable source of water is ensured. Further details are provided in water balance chart which is enclosed.

2.3. What is the quality of water required, in case, the supply is not from a municipal source? (Provide physical, chemical, biological characteristics with class of water quality)

Ans. The source of water for the proposed project will be from stored rain water during rainy days for non-flushing purposes and Technopark / KWA Water supply during non-rainy days & treated sewage for meeting the flushing water requirement. It is proposed to have Sewage Treatment Plant (STP) for treatment of domestic sewage. Also, it is proposed to have WTP for filtration & disinfection of rain water before its use. The water quality of the well available near to the site will be collected and analyzed through an NABL accredited laboratory.

2.4. How much of the water requirement can be met from the recycling of treated wastewater? (Give the details of quantities, sources and usage)

Ans. The proposed project has provision for treatment of sewage. The treatment mechanism of sewage for tertiary level. The quantity of treated water from STP which is fit for recycling to meet the flushing requirement (437 KLD), horticulture (11 KLD) & excess to the cooling requirement. The details of recycling and it's usage are provided in water balance chart.

2.5. Will there be diversion of water from other users? (Please assess the impacts of the project on other existing uses and quantities of consumption)

Ans. Since there is minimal dependency (during rainy days) on public supply, there is no diversion of water from other users. The water supply for the proposed project is from stored rain water and recycled water and hence there will be minimum impact to the surrounding.

2.6. What is the incremental pollution load from wastewater generated from the proposed activity? (Give details of the quantities and composition of wastewater generated from the proposed activity)

Ans. There would be no incremental pollution load from wastewater generated from the proposed activity because the whole waste water of this project would be treated through proposed S.T.P. within the project area and the treated water from S.T.P will be fully re-used during non rainy days and no discharge outside the project site. Therefore, no impact outside the site.

2.7. Give details of the water requirements met from water harvesting? Furnish details of the facilities created.

Ans. One of the source of water for the proposed project will be water from stored rain water in tanks to be constructed within the site for meeting the water requirement for non-flushing activities. The capacity of the rain water storage tank requirement is = ground coverage of the building x 25

Itr. as per KMBR. However, provision will be made for storage of rain water more than the statutory requirement.

2.8. What would be the impact of the land use changes occurring due to the proposed project on the runoff characteristics (quantitative as well as qualitative) of the area in the post construction phase on a long term basis? Would it aggravate the problems of flooding or water logging in any way?

Ans. It is proposed to have rain water storage tank to store the rain water for using of rain water as source of water. Due to this measure, there would be no incremental load and will not cause any flooding or water logging. The excess runoff from the site before discharge outside the premises will be passing through a de-siltation cum oil removal unit. The excess storm water will be chanzalized to the external drain which is available near to the site.

2.9. What are the impacts of the proposal on the ground water? (Will there be tapping of ground water; give the details of ground water table, recharging capacity, and approvals obtained from competent authority, if any)

Ans. Pre-construction Soil Investigation has been carried out by the agency (M/s Bore Tech Services, Kochi) for the site during the period of January, 2016 to April, 2016. As per the soil investigation report, the ground water level encountered between 0.1 m. to 1.25 m. below the existing ground level. The source of water for the proposed project will be water from rain water storage tanks for meeting the water requirement during rainy days-concurrent use and stored for non-rainy days and *Technopark / KWA* water supply at site for meeting the water requirement for non-flushing activities and hence the availability of water is ensured and due to the reasons mentioned above, the dependency on ground water will be nil.

2.10. What precautions/measures are taken to prevent the run-off from construction activities polluting land & aquifers? (Give details of quantities and the measures taken to avoid the adverse impacts)

Ans. The run-off during construction phase will be partially channelized to the rain water storage tank. The excess runoff will be channelized from the site after de-silting and oil removal and therefore, the run-off will not contaminate the land and aquifer. Further regular housekeeping will be carried out at site in order to prevent the contamination of run-off due to non-point sources of pollution. The labour colony will be provided with adequate potable toilet facility so as to avoid open defecation. The exposed earth during rainy days will be protected. The loose construction materials during the rainy days will be protected.

During operation phase, the surface runoff will be channelized through a de-siltation cum oil removal unit before it leaves the site. Also regular house keeping will be carried out in order to prevent the contamination of run-off due to non-point sources of pollution. The roof run-off will be channelized to a rain water storage tanks and the excess run-off from the tank will be discharged outside drain available in the Technopark campus.

2.11. How is the storm water from within the site managed? (State the provisions made to avoid flooding of the area, details of the drainage facilities provided along with a site layout indication contour levels)

Ans. The run-off during construction phase will be partially channelized to the rain water storage tank. The excess runoff will be channelized from the site after de-silting and oil removal and therefore, the run-off will not contaminate the land and aquifer. Further regular housekeeping will be carried out at site in order to prevent the contamination of run-off due to non-point sources of pollution. The labour colony will be provided with

adequate potable toilet facility so as to avoid open defecation. The exposed earth during rainy days will be protected. The loose construction materials during the rainy days will be protected.

During operation phase, the surface runoff will be channelized through a de-siltation cum oil removal unit before it leaves the site. Also regular house keeping will be carried out in order to prevent the contamination of run-off due to non-point sources of pollution. The roof run-off will be channelized to a rain water storage tanks and the excess run-off from the tanks will be discharged outside drain.

2.12. Will the deployment of construction labourers particularly in the peak period lead to unsanitary conditions around the project site (Justify with proper explanation)

Ans. The proposed project has provision of labor colony with toilet facility and the domestic sewage will be channelised to the STP during the construction period. Also, it is proposed to have the food waste from labor colony through the microbial bio-bin composting facility. Also, it is proposed to have a dedicated staff for good house keeping of the construction site premises and the labor colony premises. These measures will ensure good hygienic conditions around the labor colony.

2.13. What on-site facilities are provided for the collection, treatment & safe disposal of sewage? (Give details of the quantities of wastewater generation, treatment capacities with technology & facilities for recycling and disposal)

Ans. The proposed project will provide of mobile STP for the treatment of sewage during construction phase and STP of about 851 KL capacity within the project premises to treat the sewage during operation phase. The treatment of the sewage will be done upto a tertiary level. The total quantity of sewage generation will be 709 KL/day. The treated water will be fully recycled for meeting the flushing, horticulture & cooling water requirement. There will be no sewage discharge from the proposed project premises after development of the proposed project.

2.14. Give details of dual plumbing system if treated waste used is used for flushing of toilets or any other use.

Ans. The treated waste water from the proposed Sewage Treatment Plant during the operation phase of the project will be used for flushing, horticulture & cooling purposes and for which dual plumbing system is proposed.

3.0 VEGETATION

3.1. Is there any threat of the project to the biodiversity? (Give a description of the local ecosystem with its unique features, if any)

Ans. There are various native species of trees, shrubs, herbs etc. existing at site as part of floral ecology. Some of the species identified are exotic & invasive species. Also the site has several faunal species. The detailed Bio-diversity assessment study report will be prepared and provided in the Environment Impact Assessment Report / Environment Management Plan (EIA/EMP Report) which will be made only after approval of Terms of Reference.

3.2. Will the construction involve extensive clearing or modification of vegetation? (Provide a detailed account of the trees & vegetation affected by the project)

Ans. There are various native species of trees, shrubs, herbs etc. existing at site as part of floral ecology. For the development of the project site, the existing vegetation will be cleared from the site.

As per the "Kerala Promotion of Tree Growth in Non-Forest Areas (Amendment) Act, 2007", no permission is required for cutting of these trees.

The detailed Bio-diversity assessment study report will be prepared and provided in the Environment Impact Assessment Report / Environment Management Plan (EIA/EMP Report) which will be made only after approval of Terms of Reference.

3.3. What are the measures proposed to be taken to minimize the likely impacts on important site features (Give details of proposal for tree plantation, landscaping, creation of water bodies etc along with a layout plan to an appropriate scale)

Ans. It is proposed to have large number (mostly flowering & shady trees) of tree plantation (native species), shrubs, herbs as part of the landscape development of the project. The species includes flowering, fruit bearing trees. These measures will enhance the floral ecology. Further details will be elaborated in EIA/EMP report after approval of Terms of Reference for EIA Study.

4.0 FAUNA

4.1. Is there likely to be any displacement of fauna- both terrestrial and aquatic or creation of barriers for their movement? Provide the details.

Ans. There will be displacement of fauna specially avifauna on short term basis due to the construction of the proposed project. Further details will be elaborated in EIA/EMP report after approval of Terms of Reference for EIA Study.

4.2. Any direct or indirect impacts on the avifauna of the area? Provide details.

Ans. There is direct and indirect impact on the avifauna of the area due to this project on short term basis during construction phase. Further details will be elaborated in EIA/EMP report after approval of Terms of Reference for EIA Study.

4.3. Prescribe measures such as corridors, fish ladders etc to mitigate adverse impacts on fauna

Ans. By plantation of flowering, fruit bearing and shady trees the faunal ecology specially the avifauna will be enhanced. Also, it is proposed to develop a butterfly garden and a bird bath. These measures will minimize the adverse impact on the faunal ecology of the area.

5.0 AIR ENVIRONMENT

5.1. Will the project increase atmospheric concentration of gases & result in heat islands? (Give details of background air quality levels with predicted values based on dispersion models taking into account the increased traffic generation as a result of the proposed constructions)

Ans. The proposed project is a Mixed Land Use Construction project and it will not increase atmospheric concentration of gases, the project has provision of D.G. Sets for standby arrangement of electricity and will run only during power failure. The stack attached to the proposed D.G. Sets will follow all the rules and regulations of State Pollution Control Board and Central Pollution Control Board. Also the fuel to be used in the DG set will use only Low Sulphur diesel. The ambient air quality of the site will be carried out through an accredited laboratory.



5.2. What are the impacts on generation of dust, smoke, odorous fumes or other hazardous gases? Give details in relation to all the meteorological parameters.

Ans. During construction phase, there will be generation of dust & smoke due to this project. The dust generation during construction phase will be controlled by enclosures at appropriate locations and also by sprinkling of water for suppression of dust. A wind barrier will be erected all along the periphery of the project site. The gas/smoke generation expected is from D.G. sets only and the gases will be vented out through stack of appropriate height.

5.3. Will the proposal create shortage of parking space for vehicles? Furnish details of the present level of transport infrastructure and measures proposed for improvement including the traffic management at the entry & exit to the project site.

Ans. The proposed project would provide vehicle parking facilities within the project premises. The parking plan for this project would follow KMBR guidelines. The conceptual plan clearly shows the internal traffic management with entry and exit to the proposed project site. The proposed site development will provide minimum drive way as per KMBR at all around the building block for easy & smooth vehicular movement. The access to the project site is from 18 m. wide internal road of Technopark Phase-3 campus and this road is well connected to N.H. 66 Bypass Road located at about 200 m. (west side) from the project site. The nearest railway station (Kazhakkootam Railway Station) is about 1.5 km. (NW) and Trivandrum International Airport is about 10 km. (S) away from the project site.

5.4. Provide details of the movement patterns with internal roads, bicycle tracks, pedestrian pathways, footpaths etc., with areas under each category.

Ans. The conceptual plan shows the internal traffic management with entry and exit to the proposed project site, all internal roads and its width, pedestrian pathways etc. Further provisions of ramp are proposed for the easy access to the building for physically challenged persons.

5.5. Will there be significant increase in traffic noise & vibrations? Give details of the sources and the measures proposed for mitigation of the above.

Ans. The proposed project is a Mixed Land Use Construction project and there would be some increase in noise and vibration due to the vehicular movement within the project site. The project has provision of large area for the parking for the vehicles and the parking arrangement which is planned, that there would be easy movement of vehicles within the project area and smooth movement is provided for the vehicles to reduce the traffic congestion.

5.6. What will be the impact of DG sets & other equipment on noise levels & vibration in & ambient air quality around the project site? Provide details.

Ans. The D.G. sets which would be used for the project will be with sound proof acoustic enclosures and hence there will be no impact to the surroundings. The D.G. sets would be attached with proper anti vibration pads to reduce any vibration impact to the site surrounding. Further, DG sets will be installed on the ground level. The flue gases from the D.G. sets will be vented out through stack of appropriate height as per C.P.C.B. norms to reduce the impacts on air quality around the project site.



6.0 AESTHETICS

6.1. Will the proposed constructions in any way result in the obstruction of a view, scenic amenity or landscapes? Are these considerations taken into account by the proponents?

Ans. There is no natural feature of aesthetics importance located in the immediate vicinity of the project site.

6.2. Will there be any adverse impacts from new constructions on the existing structures? What are the considerations taken into account?

Ans. The project site is located within the Technopark campus and the project site is surrounded by the I.T. buildings and Technopark internal road, vacant land with plantations. Thereby, there will be no any adverse impacts due to the development of the proposed project.

6.3. Whether there are any local considerations of urban form & urban design influencing the design criteria? They may be explicitly spelt out.

Ans. The proposed project would be constructed in conformity with the Kerala Municipal Building Rules (KMBR).

As per seismic classification, the project site falls in Zone-III. No reported cloudburst in the area. Also, there is no hilly area around the project site, there is no chance of landslide. Structural design aspects as per the seismic codes – IS 1893 (2002), IS 13920 (1993) and IS 456 (2000) as applicable would be incorporated in our project.

6.4. Are there any anthropological or archaeological sites or artefacts nearby? State if any other significant features in the vicinity of the proposed site have been considered.

Ans. There is no report of existence of any anthropological or archaeological site nearby the project area. The proposed project is located in Corporation Limit of Thiruvananthapuram. The vicinity map showing the site & surrounding area is provided. Some of the important features which are located within 15 km. of the site is given below :-

- Trivandrum Zoo - about 9 km. (SE)
- Thampurampara View Point - about 14 km. (NE)
- Parasurama, Siva, Brahma and Matsya Temple, Thiruvallam, Thiruvananthapuram - about 14 km. (S)
- Kadinamkulam lake - about 6.5 km. (NW) (Important Coastal and Marine Diversity Area).

7.0 SOCIO-ECONOMIC ASPECTS

7.1. Will the proposal result in any changes to the demographic structure of local population? Provide the details.

Ans. The proposed project is a Mixed Land Use Construction project. During operation phase, on full occupancy of the project, the maximum population expected is about 25,000 persons (floating/fixed) and hence there will be influx of people to the project area and surrounding. Hence there will be increase in demographic structure.

Further details will be elaborated in EIA/EMP report after approval of Terms of Reference for EIA Study.

7.2. Give details of the existing social infrastructure around the proposed project.

Ans. There are several schools, colleges, religious places commercial and residential buildings, Govt. and private offices, hospitals, which are

located around the proposed project. The vicinity map showing the surrounding details of the proposed project is provided.

7.3. Will the project cause adverse effects on local communities, disturbance to sacred sites or other cultural values? What are the safeguards proposed?

Ans. The project would not cause any adverse effects on local communities, disturbance to sacred sites or other cultural values. The project is a mixed land use project and thereby the living index of the people around the project site will definitely improve. Also there will be various ancillary activities like convenient shops, offices, transport facilities etc. attached to the project which will benefit the local people and change their living condition. Further details will be elaborated in EIA/EMP report after approval of Terms of Reference for EIA Study.

8.0 BUILDING MATERIALS

8.1. May involve the use of building materials with high-embodied energy. Are the construction materials produced with energy efficient processes? (Give details of energy conservation measures in the selection of building materials and their energy efficiency)

Ans. The proposed project is construction of a mixed land use project and the proposed buildings are centrally air conditioned, the selection of building materials plays a major role in the energy consumption. The proposed project will make all attempts to use to avoid building materials with high embodied energy. Cement blocks & hollow blocks will be replaced with country made red bricks. Further, the river sand will be replaced by manufactured sand from stone crushers. The glass used will be low emissivity and having U value as per ECBC norms.

8.2. Transport and handling of materials during construction may result in pollution, noise & public nuisance. What measures are taken to minimize the impacts?

Ans. All vehicles which bring construction material to the site would possess Pollution Under Control Certificates (PUC). All vehicles would be of close body to avoid spread of dust from the loose materials, and vehicles which bring sand, stone dust, etc. would ensure that the above mentioned material are properly wetted during transportation to avoid dust generation. Pucca road will be made in the construction site for the vehicle movement so that the dust generation due to the vehicular movement within the project site can be minimized. Stacking of construction material shall be confined to the project site only. All the D.G. Sets would have attached with Acoustic Enclosure for the sound pollution control and all sound generating construction activity to be minimized. Further barricading of the site with GI sheets of 20 ft height in the side abutting the public road during construction phase.

8.3. Are recycled materials used in roads and structures? State the extent of savings achieved?

Ans. The plastic (non-biodegradable solid waste) will be used along with coal tar during the construction of internal roads. This will increase the life of roads.

8.4. Give details of the methods of collection, segregation & disposal of the garbage generated during the operation phases of the project.

Ans. The details are given below :-

SOLID WASTE

- ✓ The proposed project will generate about 3,462 Kg/day.



- ✓ The Solid Waste Management Rules, 2016 will be followed in the Solid Waste Disposal Mechanism at the site during operation phase.
- ✓ Collection & segregation within the site (bio-degradable waste (green bins), non-biodegradable waste (blue bins) and domestic hazardous waste (yellow bins).
- ✓ The recyclable waste like packaging material, paper etc. would be sold through.
- ✓ The Bio-degradable waste would be disposed through the bio-gas generation units/Bio-bin system to be installed within the site.
- ✓ The bio-gas generated will be utilized in the canteen / kitchen area and the manure generated will be utilized for green area development within the premises.

e-Waste :-

- ✓ Discarded computer parts, monitor, key boards etc. constitutes e-waste and this waste will be stored in an earmarked area.
- ✓ E-waste will be generated after 4-5 years latency period
- ✓ Separate earmarked space will be provided for e-waste storage.
- ✓ E-waste will be disposed as per E Waste (Management & Handling) Rules.

HAZARDOUS WASTE

- ✓ As per Hazardous Waste (Management & Handling Rules), 2016, the hazardous waste i.e., the used oil from D.G. sets, discarded oil filters and discarded batteries and stored separately and will be disposed to CPCB / SPCB authorized vendors only.
- ✓ M/s Pefect Alloys, Chengannur, M/s Peejay Enterprises, Thiruvalla, M/s Excel Petrochemicals, Kochi and M/s Cee Jee Lubricants, Aluva are the approved recyclers for discarded batteries & used oil located in Kerala.
- ✓ Also, domestic hazardous waste would be generated like discarded paint drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles and syringes and contaminated gauge etc. generated at the household level.

9.0 ENERGY CONSERVATION

9.1. Give details of the power requirements, source of supply, backup source etc. What is the energy consumption assumed per square foot of built-up area? How have you tried to minimize energy consumption?

Ans. The total power requirement is estimated to be 13 MVA and will be met by Kerala State Electricity Board. The project will make provision of D.G. Sets as standby arrangement of electricity. The proposed project will have provision of power saving. Other measures are:-

- Water cooled chillers in place of air cooled chillers which are energy intensive & the treated water available from STP would be used as make-up water attached to the water cooled chillers.
- Solar Energy operated Photovoltaic lighting for partial external areas lighting.
- Savings in energy by the use of LED lamps.
- Building Management System (BMS) through sensors for maximizing the energy conservation.
- Solar water heating system for the hot water requirement.
- Electrical fixtures & HVAC unit would be of 5 star series as per Bureau of Energy Efficiency (BEE) to achieve reduction in energy consumption.

9.2. What type of and capacity of power back-up to you plan to provide?

Ans. The project proponent has made provision of D.G. Sets (1,600 kVA x 5 nos. + 1,250 kVA x 3 nos. + 1,000 kVA x 4 nos.) as standby arrangement of electricity.



9.3. What are the characteristics of the glass you plan to use? Provide specifications of its characteristics related to both short wave and long wave radiation?

Ans. The glass used will be low emissivity and the other specifications of the glass will comply with the norms as per ECBC. The further details are :-

Sr. No.	Description of Material with Specification for Residential Building (Non-air conditional building)	U-Value Achieved (W / m ² K)	Type & Manufacturer
1.	WALLS (Cement plaster + Insulative internal plaster + 200 mm thick Cement Blocks, External enamel coating) with wall insulation	< 1.25	Wall insulation Gyproc gypsum plaster – 15 mm on interior surface, Make : Saint. Gobtain – Gyproc
2.	ROOF (115 mm RCC + 65 mm Vermiculate + 100 mm brick coba + 25 mm Roof Tiles finish) with Roof insulation	< 0.5	Elastopor PUR Board 50 mm + HDPE 500 micron + Geotextiles Make : BASF
3.	GLASS (Single Clear 4 mm Glass)	4.20	Neutral Colour, Clear (non reflective) Make : M/s Asahi India (AIS)

Sr. No.	Description of Material with Specification for Commercial Building (Air-conditional building)	U-Value of the overall assembly
1.	EXTERNAL WALL External finish + 200 mm thick Cement Blocks + Thermal insulation + Stone cladding wall plastered on both side with 5 mm thick aluminium composite panel	0.39 W / m ² K)
2.	ROOF 150 mm thick expanded polystyrene insulation + Water Proofing Compound + 40 mm thick Roof Tiles Grouted with 1:4 Cement Mortar	0.367 W / m ² K)
3.	GLASS Glazing shall be of double glass with air gap (6 mm + 12 mm air gap + 6 mm)	3.30 W / m ² K)

9.4. What passive solar architectural features are being used in the building? Illustrate the applications made in the proposed project.

Ans. All the relevant features are incorporated like the orientation of the building, shading effect etc.

9.5. Does the layout of streets & buildings maximise the potential for solar energy devices? Have you considered the use of street lighting, emergency lighting and solar hot water systems for use in the building complex? Substantiate with details.

Ans. Due consideration has been taken for maximum use of the solar energy while preparations of layout plan. The project proponent shall made provision for solar panel system (hot water purpose) in building block area and solar energy devices will be used for street lighting, emergency lighting in the proposed project.

9.6. Is shading effectively used to reduce cooling/ heating loads? What principles have been used to maximize the shading of Walls on the East and the West and the Roof? How much energy saving has been effected?

Ans. All the relevant features are incorporated like the orientation of the building, shading effect etc.

9.7. Do the structures use energy-efficient space conditioning, lighting and mechanical systems? Provide technical details. Provide details of the transformers and motor efficiencies, lighting intensity and air-conditioning load assumptions? Are you using CFC and HCFC free chillers? Provide specifications.

Ans. Suitable energy optimization will be adopted during the calculation of energy load of the proposed project. The space heating load will be minimized using passive solar structure and suitable buildings envelop

material. Uses of incandescent lamp and halogen lamps have been avoided and energy efficient LED lamps will be used for all common area. The diesel generator sets shall be automatically controlled to optimize their usage based on the actual load requirements at any time. Variable frequency drive systems would be adopted for the lifts etc. to maximize the energy saving.

9.8. What are the likely effects of the building activity in altering the micro-climates? Provide a self assessment on the likely impacts of the proposed construction on creation of heat island & inversion effects?

Ans. More open spaces are proposed within the site to creation of any heat islands. The roads and parking spaces would be with concrete slabs intermittent with grass on surrounding.

9.9. What are the thermal characteristics of the building envelope? (a) roof; (b) external walls; and (c) fenestration? Give details of the material used and the U-values or the R values of the individual components.

Ans. The building construction material namely bricks, concrete and steel are being used in the construction. U-factor, also known as Thermal Transmittance, is heat transmission in unit time through unit area of a material or construction and the boundary air films, induced by unit temperature difference between the environments on each side. The glass used will be low with low emissivity and the other specifications of the glass will comply with the norms as per ECBC.

9.10. What precautions & safety measures are proposed against fire hazards? Furnish details of emergency plans.

Ans. List of equipments proposed for Fire Fighting Measures:-

- A. The major equipments proposed for Fire Fighting Measures are Main Hydrant Pump, Sprinkler Pump, Diesel Engine Pump, Jockey Pump.**
- B. Capacity of Fire Water Storage Tanks & Number:-**
It is proposed to have Fire Water Storage Tank of appropriate capacity of overhead tank for fire fighting provided at the tower.
- C. Fire Detecting Equipments: -**
The Fire Detecting Equipments would be as per BIS and NBC norms.
- D. Other Fire Fighting Measures: -**
The other Fire Fighting Measures proposed includes, an Emergency Control Room, Separate Fire exit during emergency, all rooms with Fire Detector / Smoke Detector, Fire Extinguishes at each entry and exit point on each floor, (5 Kg, 10 Kg and 9 Ltr. capacity), Public address system etc. The Fire Fighting Measures are backed by Electrical supply from D.G. sets in case of emergency.
The nearest fire station is at Technopark fire station which is about 1.5 km. away from the project site.

9.11. If you are using glass as wall material provides details and specifications including emissivity and thermal characteristics.

Ans. The glass will be used Low-e glass. Opaque assemblies shall be modeled as having the same heat capacity as the proposed design but with minimum U-factor. The glass used will be low with low emissivity and the other specifications of the glass will comply with the norms as per ECBC.



9.12. What is the rate of air infiltration into the building? Provide details of how you are mitigating the effects of infiltration.

Ans. Infiltration is the uncontrolled inward air leakage through cracks and crevices in any building element and around windows and doors of a building caused by pressure differences across these elements due to factors such as wind, inside and outside temperature differences, and imbalance between supply and exhaust air systems.

9.13. To what extent the non-conventional energy technologies are utilised in the overall energy consumption? Provide details of the renewable energy technologies used.

Ans. The use of non-conventional source of energy in the proposed construction project are as follows: -

a. Solar Water Heater: -

The proposed project would install solar panels for hot water requirements in the building block and hence the dependency on electricity for hot water generation can be minimized. This would conserve lot of coal which produces the electricity through public supply and also load on D.G. sets also would be reduced and there by conserve diesel.

b. Solar Street Light: -

It is also suggested to use solar cell powered street lights within the proposed project site for conservation of electricity.

c. Use of LED Lamps: -

The project proponent would use LED Lamp which conserve less electricity.

10.0 Environment Management Plan

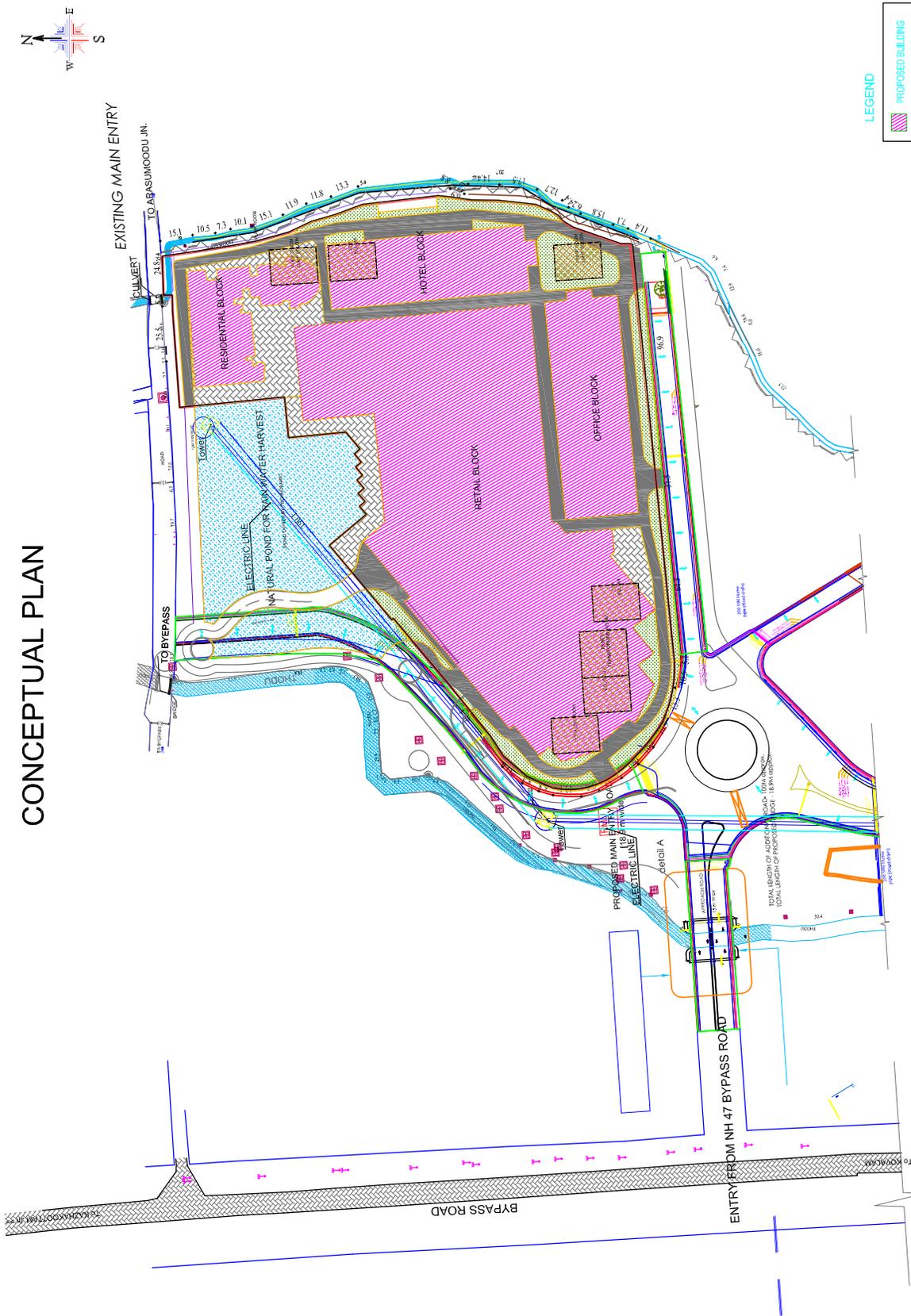
The Environment Management Plan would consist of all mitigation measures for each item wise activity to be undertaken during the construction, operation and the entire life cycle to minimize adverse environmental impacts as a result of the activities of the project. It would also delineate the environmental monitoring plan for compliance of various environmental regulations. It will state the steps to be taken in case of emergency such as accidents at the site including fire.

Ans. The Environment Management Plan will be submitted along with EIA Report after approval of ToR for EIA study.

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CONCEPTUAL PLAN



LEGEND

[Pink hatched box]	PROPOSED BUILDING
[Grey hatched box]	ROAD NETWORK
[Green hatched box]	GREEN AREA
[Blue hatched box]	PAVEMENT AREA
[Yellow hatched box]	SERVICES
[Blue hatched box]	WATER BODY

SETBACK DISTANCES FROM 66 KVA HT line

REQUIRED AS PER KSEB NORMS	PROVIDED
Horizontal 2.3 m.	10.8 m.
Vertical 4.0m.	No building proposed below the H.T. line

SCALE 1:1200

* All Mechanical Car parking dedicated for Staff

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This is the true copy of the document referred to and marked as Annexure.R.4 (B) in the reply statement.

2020 (2) KHC 94
Kerala High Court
S. Manikumar, C. J. ; *Shaji P. Chaly, J.

Mather Nagar Residents Association and Another v. District Collector, Ekm and Others

Parallel citation(s): 2020 (2) KHC 94 : 2020 (2) KLT 192 : 2020 (2) KLJ 50

Kerala Conservation of Paddy Land and Wetland Act, 2008 -- S.2(xviii), S.2(xii) -- Fallow land -- Whether comes under the provisions of the Act -- Fallow land is never treated as wetland in accordance with the provisions of Act -- Merely because property is lying fallow and water gets logged during rainy season or otherwise due to the low lying nature of property, it cannot be termed as wetland or paddy land under the Act -- Constitution of India, Art.226

Held: It is clear from the report submitted by the Sub Collector before the Apex Court as well as report of KSREC, the nodal agency of State Government, that the properties in question is a fallow land. Fallow land is never treated as wetland in accordance with the provisions of Act, 2008. It is also significant to note that from the definition of wetland under Act, 2008, paddy land and rivers are excluded. The report submitted by the KSREC is not disputed by the Residents Association. Merely because the property is lying fallow and water gets logged during rainy season or otherwise due to the low lying nature of the property, it cannot be termed as wetland or paddy land in contemplation of Act, 2008. Mere low lying or a fallow land can never be considered and treated as wetland as per Act, 2008, unless as said earlier, it is having the characteristic features as defined under the Act

Important Para(s):22, 23

Constitution of India -- Art.226 -- Construction of building -- Police protection -- When property in question was converted prior to the introduction of Paddy Land Act and additions are made in the revenue records classifying land as 'purayidam' much prior to purchase of property by the builder, obstruction cannot be caused in carrying out construction in



the said property stating that property is a paddy land -- In case of obstructions, Police is bound to grant protection -- Kerala Conservation of Paddy Land and Wetland Act, 2008, S.2(xii), S.11

Held: Properties in question were converted prior to the introduction of Act, 2008 and additions are made in the revenue records classifying the land as 'purayidam' much prior to the property was purchased by the builder, evident from Ext.P1 document dated 18/09/2014. Bearing in mind the provisions of law discussed above, the requirements under law, the proposition of law laid down in the aforequoted judgments, and that the area in question is built up with several buildings and structures, we are of the considered opinion and view that, there is no legal basis enabling the Residents Association to secure any reliefs as is sought for in W.P.(C) No.33717/2016. Therefore, they have no right, legally and morally to obstruct the constructions carried out by the builder in accordance with law and in terms of the building permit and the approved plan secured by the builder. In that view of the matter, we have no hesitation to hold that, the builder is entitled to get Police protection, if any obstructions are created by the Residents Association, and if the construction is carried out by the builder in accordance with law

Important Para(s):33, 34

Kerala Conservation of Paddy Land and Wetland Act, 2008 -- S.2(xviii), S.11 -- Wetland -- In order to treat a particular land as wetland, it should have the characteristic features and requirement as is provided under Act

Important Para(s):22

Kerala Conservation of Paddy Land and Wetland Act, 2008 -- S.2(xviii), S.11 -- Prior to the introduction of Act, 2008, there was no prohibition from reclaiming a wetland

Important Para(s):24

Kerala Conservation of Paddy Land and Wetland Act, 2008 -- S.2(xii), S.11 -- Paddy land -- Prohibition against conversion -- Act prohibits conversion of



paddy land, only if the property in question is included in the data bank constituted for the purpose under the Act

Important Para(s):25

Referred: Aishabeevi v. Superintendent of Police, Ernakulam, 2014 (3) KHC 678; Jafarkhan v. K. A. Kochumakkar and Others, 2012 (1) KHC 523; Local Level Monitoring Committee, Kizhakkambalam v. Mariumma, 2015 (3) KHC 19; Revenue Divisional Officer, Fort Kochi v. Jalaja Dileep, 2015 (2) KHC 109; Referred to

Advocates:

S. Sreekumar; A. Lowsy; P. Martin Jose; P. Prijith; K. Shibili Naha; Thomas P. Kuruvilla; For Petitioners
V. V. Asokan; K. V. Sohan; M. K. Aboobacker; Animon A. John; R. B. Rajesh; R. Jaikrishna; For Respondents

JUDGMENT

The Judgment of the Court was delivered by Shaji P. Chaly, J.

1. The issues in the captioned writ petitions relate to construction of a multi storied building in an extent of 39.20 Ares of property comprised in Block No.5, R.S.Nos.104/1 & 104/2, (old Sy.Nos.707/18A, 707/18A1, 707/17/2, 707/188, 702/20) of Thrikkakkara North Village. W.P.(C) No.33717/2016 is filed by Mather Nagar Residents Association, who are apparently residents of the locality, objecting to the construction proposed to be carried out by a builder viz., National Builders, who is the petitioner in the connected writ petition, seeking a mandamus directing the District Collector, Ernakulam and the Kalamassery Municipality, respondents 1 and 2, to take immediate and effective action to prohibit the 3rd respondent from filling up 39.20 Ares of uncultivated paddy land comprised in Re - Sy Nos.104/1 and 104/2 of Thrikkakara North Village, and for a further mandamus directing the District Collector to conduct an enquiry as to how the nature of land was changed as dry land in Ext.P6 revenue record issued by the revenue authorities, which is a document similar to Ext.P13 in the connected writ petition, and to take appropriate action against the officers, who are responsible for correcting the nature of land in the Land Register.



2. W.P.(C) No.34983/2016 is filed by the National Builders seeking mandamus to the Circle Inspector of Police, Kalamassery and Sub Inspector of Police, Kalamassery, respondents 1 & 2, to provide adequate and effective Police protection including protection for life to its men and workers to undertake construction works at their site situated in the survey numbers specified above, and for other consequential and related reliefs. Therefore, we heard them together and propose to pass this common judgment.

3. In fact W.P.(C) No.34983/2016 filed by the National Builders was allowed by a Division Bench of this Court as per a common judgment dated 21/12/2016 directing to provide Police protection to carry out construction activities in accordance with law, and dismissed W.P.(C) No.33717/2016 filed by the Residents Association. The matter was taken in appeal by the Mather Nagar Residents Association, before the Apex Court in Civil Appeal Nos.2489-2490 of 2018 arising out of (SLP(C) Nos.3551-3552 of 2017, Apex Court has passed an interim order on 21/11/2017 in the Special Leave Petitions specified above, directing the Revenue Secretary, Government of Kerala, to conduct an enquiry into the nature of lands in question by deputing a suitable officer to inspect the land in question, and also to go through the revenue records, and submit a report to the Supreme Court within six weeks. On the basis of the direction issued by the Additional Chief Secretary to Government of Kerala, the Sub Collector, Fort Kochi was authorised to visit the land and to submit a report to the Supreme Court through Advocate General. Accordingly, a report was submitted by the Sub Collector before the Apex Court dated 06/01/2018. Thereafter, taking into account the rival submissions made by the parties, remanded the matter for fresh consideration with the following directions, as per an order dated 05/03/2018.:

"It is however, not clear whether permissions for construction have been granted in respect of the wet land or other lands. Rival contentions in this regard were made before us. A detailed investigation would be necessary.

Taking an over all view of the matter, we consider it appropriate to set aside the common impugned order passed by the High Court, and remand the matter for a fresh decision after taking into account the detailed report submitted by the Sub-Collector, Fort Kochi, Ernakulam District, Kerala. If necessary, the High Court is at liberty to order further report.

We order accordingly.

The High Court shall determine the entire controversy afresh in accordance with law.

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The High Court is further requested to dispose of these matters at the earliest preferably not later than six months from the date of receipt of copy of this order. In the meanwhile, there shall be status quo as regards the constructions on the lands in question.

However, all submissions and contentions of both parties are left open. The appeals are disposed of in the aforesaid terms."

4. Thereafter, a Division Bench of this Court as per order dated 05/07/2018 in I.A.No.9891/2018 inter alia directed the 5th respondent i.e., the Principal Agricultural Officer in his capacity as Convenor of the Local Level Monitoring Committee to obtain a report from the Kerala State Remote Sensing and Environment Centre (KSREC) with regard to the nature and lie of the land as on 12/08/2008. Further, it was directed that the report of the KSREC shall indicate clearly the nature of land i.e., whether paddy land, wet land or dry land as on 12/08/2008, and to report the nature and lie of the land immediately prior to and after the said date, as also the nature of the surrounding lands, before this Court to examine the legality of the construction that is proposed on the said land by the National Builders, within six weeks from the date of the order.

5. However, when the matter was posted on 19/02/2019, learned Senior Government Pleader sought further time for producing report of KSREC. However in accordance with the order dated 07/06/2019 passed in the writ petitions, a cryptic report with indistinguishable photographs have been produced before the Court by the KSREC. Thereupon, learned State Attorney undertook to file a report before this Court with clear satellite pictures. Thereafter it is recorded in the order dated 18/09/2019 that the data analysis made by the KSREC was produced before the Court. Now we propose to dispose of the writ petitions relying upon the documents and facts available from W.P.(C) No.34983/2016, which will decide the fate of the other writ petition also.

6. Petitioner in the said writ petition is in possession of the above specified property by virtue of Ext.P1 sale deed bearing No.3916/2014 of the office of the Sub Registry, Edappally dated 18/09/2014. The owner of the property secured Ext.P2 building permit for construction of residential apartments, from the Kalamassery Municipality. There is no dispute with respect to other necessary licenses and permissions secured by the builder from the statutory authorities. But when the construction activities commenced, the members of the Mather

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Nagar Residents Association filed the connected writ petition i.e., W.P.(C) No.33717/2016 raising objection, and has also submitted representations before the Municipality and the District Collector, basically contending that, the properties in question is a wetland, and that, the width of the access road is less than six meters. However, builder / the owner of the property contends that, the property in question is only a portion of an extent of land purchased by him from the erstwhile owner of the property as per Ext.P1 sale deed and that property is a dry land described as 'purayidam' in the title deed and all the revenue records including the Basic Tax Register.

7. So much so it is contended that, the construction is carried out strictly in accordance with the permit secured and the approved plan but for reasons best known to the members of Mather Nagar Residents Association obstructions are being caused. It was thereupon that applications were filed before the Circle Inspector and Sub Inspector of Police of the local jurisdiction to provide Police protection to carry on with the construction. In W.P.(C) No.33717/2016, the main objection raised by the Residents Association is that, the width of the way leading to the property in question is less than 6 meters prohibiting the builder from carrying out the construction in accordance with the Kerala Municipality Building Rules, and that the property in question is a wetland, and therefore, prohibited from filling it up as per the provisions of the Kerala Conservation of Paddy land and Wetland Act, 2008 (hereinafter called, 'Act 2008').

8. So far as the issue raised with respect to the width of the access road on the basis of the complaint submitted by the Residents association, Kalamassery Municipality has issued a notice dated 03/10/2016 apparently as per the provisions of the Kerala Municipality Building Rules directing the builder to stop the construction activities. Against the said order of the Municipality, the builder has approached the Tribunal for Local Self Government Institutions, Thiruvananthapuram and the Tribunal has passed an order of stay dated 18/10/2016. Therefore, the said issue is at large before the Tribunal and we are informed that the subject matter is pending consideration before the Tribunal. Therefore, the sole question that comes up before us for consideration is, whether the property in question is a paddy land as claimed by the Residents Association or a dry land as claimed by the land owner?

9. The photographs produced by the Residents Association along with the writ

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petition would show that the property is a water logged area and it is contended that, it is on the said property that construction is proposed to be carried out by the builder. The said photographs are dated 19/10/2016. It is also contended by the Residents Association that, going by Ext.P6 revenue document, the property in question situated in Sy.Nos.104/1 and 104/2 were originally shown as 'nilam' (paddy field), which was later shown as 'purayidam', evident from Ext.P6 in W.P.(C) No.33717/2016, similar to Ext.P13 in the connected writ petition. It is also evident from the said document that the classification of the property is additionally entered as 'purayidam' against the original entries of 'nilam' (paddy field) on 31/12/1993 and 1986, on the basis of several title deeds and a partition deed bearing No.2320/86 respectively. Therefore, it is contended by the Residents Association that the classification was re - done in the revenue records without conducting due enquiry and therefore, it cannot be sustained under law.

10. We have heard learned Senior Counsel Sri. V. V. Ashokan for the petitioner in WP.(C) No.34983/2016 assisted by Adv. Animon A. John, Senior Counsel Sri. S. Sreekumar for the Residents Association assisted by Adv. K. Shibli Naha and learned State Attorney Sri. K. V. Sohan and perused the pleadings and documents on record.

11. So far as the builder is concerned, it is having sufficient documents with it in respect of the building permit secured for carrying out the constructions in the property. But fact remains the validity of the building permit issued by the Municipality is now pending before the Tribunal for Local Self Government Institutions consequent to stop memo issued by the Secretary of the Kalamassery Municipality and the Tribunal has stayed the stop memo. Therefore, according to the builder, by virtue of the stay granted by the Tribunal, they are entitled to proceed with the construction activities in accordance with the permit and the approved plan sanctioned by the Kalamassery Municipality. The said aspect is not under dispute before us. Therefore, normally and ordinarily when stay was granted by the Tribunal against the action of the Municipality stopping the constructions, the builder was entitled to carry on with the construction. However, when the matter was remanded for fresh consideration to this court by the Apex Court, parties were directed to maintain status quo and accordingly, no construction was carried on.

12. The paramount contention advanced by learned Senior Counsel appearing



for Residents Association is that, the report submitted by the Sub Collector before the Apex Court produced as Ext.P14 in W.P.(C) No.34983/2016 shows that, two extents of property shown thereunder i.e., 'A' plot and 'D' plot in Sy.Nos.104/1 and 104/2 having an extent of 10 Ares and 00.24 Ares are wet lands and the properties admeasuring 19.86 Ares and 09.10 Ares situated in Sy.No.104/1 as 'B' plot and Sy.No.104/2 as 'C' plot are reclaimed lands, which cannot be utilised for the purpose of carrying out construction without securing orders from the appropriate statutory authorities as per the provisions of the Act, 2008. The Sub Collector has also reported that, the aforesaid properties situated in Sy.Nos.104/1 and 104/2 are shown as 'purayidam' (dry land or garden land) as per the land tax receipt (Book No.61899 and L No.6189823, Thandaper Register (No.32810).

13. Apparently from Ext.P6 and Ext.P13 produced in the respective writ petitions, it is evident that, the said finding of the Sub Collector tallies with the revenue records. That apart in the report, the description of the property is shown as nearby the Ernakulam - Shornur Railway line. The western boundary of the property is railway line and vacant land, and Municipal road on the northern and eastern side and wetland on the southern side. It is further reported that, a coconut tree is seen standing in the wetland i.e., plot 'A'. A terraced building bearing No.3/408A / 94 in the reclaimed land (plot B). It is also pointed out that, yet another coconut tree, one Anjaly tree and other trees were standing in the said property.

14. On the basis of the soil sampling analysis, it is reported that, the soil samples were taken from the reclaimed land i.e., plots B and C and that soil texture became sandy clay and black in colour and thereafter the analysis indicates that, the land in question was originally wetland and later on reclaimed. However, the matter was remanded by the Apex Court having found that, it was not clear whether the permissions for construction have been granted in respect of the wetlands or other lands, also leaving open the liberty of this Court to secure further reports and the parties to raise their contentions before this Court.

15. The report consequently secured by this court through KSREC, a nodal agency functioning of the Government of Kerala, Planning and Economic Affairs Department, providing necessary assistance to various authorities including authorities under Act, 2008, dated 11/08/2018 is produced by the State Attorney before this court as per a memo dated 07/06/2019. Report on land use change



toposheet of 1967, the plot 104/2 was observed under paddy. The plot was observed under mixed vegetation / plantation with building / structures towards the eastern side, while the western part of the plot was under fallow in the data of 24/01/2008 (figure 3). The same trend in land use practices were observed to be continued in the data of subsequent years as in 21/12/2009 (figure 4), 06/01/2015 (figure 5) and 11/01/2018 (figure 6). It is also pointed out that the report is prepared based on the observations from the available satellite data of different years without physical verification. After taking into account all the above, the analysis, observations and conclusions are provided as follows:

"the analysis has been carried out from all available data sets of toposheet (1967) and different satellite data sets of 2008, 2009, 2015 and 2018 for the survey plot. As per the toposheet of 1967, the plot 104/1 was observed under paddy. The plot was observed under fallow land with mixed vegetation / plantation in southern side in the data of year 2008. The same trend in landuse practices were observed to be continued in the data of subsequent years as in 2009, 2015 and 2018. As per the toposheet of 1967, the plot 104/2 was observed under paddy. The plot was observed under mixed vegetation / plantation with building / structures towards the eastern part, while the western part of the plot was under fallow in the data of year 2008. The same trend in landuse practices were observed to be continued in the data of subsequent years as in 2009, 2015 and 2018."

19. Therefore, on a deeper consideration of the report submitted by the said agency, it is categoric and clear that, there is no wetland at all during the period in question. The property during the year 1967 was paddy field and the toposheet as well as the analysis show that during the year 2008, the property in Survey No.104/1 is lying fallow with mixed vegetation / plantation, as is evident from the figures specifically mentioned above. So much so the properties situated in survey No.104/2 is concerned, same was also under paddy cultivation and the plot is seen fallow with mixed vegetation with buildings / structures towards the eastern side as on 24/01/2008.

20. Now the prime contention advanced by learned Senior Counsel appearing for the Residents Association is that going by the report of the Sub Collector submitted before the Apex Court, the property is wetland and therefore, there is a clear prohibition contained under the Act, 2008 and invited our attention to S.11 of Act, 2008 dealing with prohibition on reclamation of land which read thus:

"On and from the date of commencement of this Act, the wetlands of the State



shall be maintained as such and there shall be a total prohibition on reclamation of such wetland and removal of sand therefrom:

Provided that nothing contained in this section shall affect the removal of slurry and mud to maintain the ecological condition of such wetland."

21. Therefore, learned Senior Counsel submitted that, on and from the date of introduction of Act, 2008 i.e., 12/08/2008, no reclamation of wetland is possible. In order to understand the arguments of learned Senior Counsel, the definition of wetland provided under Act, 2008 is relevant:

"S.2(xviii): "wetland means land lying between terrestrial and aquatic systems, where the water table is usually at or near the surface or which is covered by shallow water or characterized by the presence of sluggishly moving or standing water, saturating the soil with water and includes backwaters, estuary, fens, lagoon, mangroves, marshes, salt marsh and swamp forests but does not include paddy lands and rivers."

22. Going by the definition of wetland, we are of the view that, in order to treat a particular land as wetland, it should have the characteristic features and requirement as is provided under Act, 2008. It is clear from the report submitted by the Sub Collector before the Apex Court as well as report of KSREC, the nodal agency of State Government, that the properties in question is a fallow land. Fallow land is never treated as wetland in accordance with the provisions of Act, 2008. It is also significant to note that from the definition of wetland under Act, 2008, paddy land and rivers are excluded. The report submitted by the KSREC is not disputed by the Residents Association. Merely because the property is lying fallow and water gets logged during rainy season or otherwise due to the low lying nature of the property, it cannot be termed as wetland or paddy land in contemplation of Act, 2008. That apart on a query made by us, counsel on either side submitted that, the properties in question have access from the National Highway from Kochi to Coimbatore and by the side of Kochi Metro line, which are also admittedly developed areas with large number of residential, commercial and multi utility buildings apart from various educational and religious institutions, thus having no scope for any paddy cultivation.

23. However, the alternative argument advanced by learned Senior Counsel for the Residents Association is relying upon Ext.P6 and Ext.P13 revenue record filed in the respective writ petitions that the property was recorded as paddy field.

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Therefore, the petitioner Residents Association is not entitled to blow hot and cold at the same time contending that the land is wetland in contemplation of the provisions of the Act, 2008. The said aspect is also clear from the report of the KSREC. In that view of the matter, the contention advanced by learned Senior Counsel for the Residents Association that the property in accordance with the report of Sub Collector is wetland, cannot be sustained under law. Mere low lying or a fallow land can never be considered and treated as wetland as per Act, 2008, unless as said earlier, it is having the characteristic features as defined under the Act. That being the factual and legal situation, the contention that the properties in question are wetlands as per Act, 2008 has no foundation or basis. It is also explicit from the satellite pictures produced along with the report of KSREC that, in between the properties constructed with buildings is Kochi to Shornur railway line. Therefore, it is also evident that, there is no existing aquatic systems in order to treat the same as wetland as per the provisions of Act, 2008.

24. It is also relevant to note that, prior to the introduction of Act, 2008, there was no prohibition from reclaiming a wetland. True, prior to the introduction of Act, 2008, there was a prohibition contained under the Kerala Land Utilisation Order, 1967 from utilising a paddy field for other purposes other than paddy cultivation. It is an admitted fact that, the properties in question are not included in the data bank constituted as per the provisions of Act, 2008. S.3 of Act, 2008 deals with prohibition on conversion or reclamation of paddy land. Sub-section (1) thereunder read thus; "On and from the commencement of this Act, the owner, occupier or the person in custody of any paddy land shall not undertake any activity for the conversion or reclamation of such paddy land except in accordance with the provisions of this Act."

25. Therefore, it is explicit and clear that from the date of introduction of Act, 2008 i.e., 12/08/2008 onwards, a paddy field cannot be converted otherwise than in accordance with the provisions of Act, 2008. Which thus also means, Act, 2008 prohibits conversion of paddy land, only if the property in question was included in the data bank constituted for the purpose under the Act. Admittedly the properties in question are not included in the data bank constituted under Act, 2008. It is also clear from the report of the KSREC that, though the properties in question were paddy field in the toposheet of 1967, in the toposheet of 2008 onwards the properties in Sy.No.104/1 is shown as lying fallow with mixed vegetation etc. etc. and the properties situated in Sy.No.104/2 is shown as lying



fallow with mixed vegetation / plantations and buildings / structures towards the eastern side. Accordingly, it is clear that the filling up of the property was done prior to the introduction of Act, 2008.

26. Learned Senior Counsel appearing for the builder has invited our attention to various judgments rendered by this Court as well as Apex Court to canvass the proposition that the builder is not liable to secure any permission under the provisions of Act, 2008. In *Jafarkhan v. K. A. Kochumakkar and Others* (2012 (1) KHC 523 : 2012 (1) KLT 491 : 2012 (1) KLJ 607 : ILR 2012 (1) Ker. 535.) rendered by a Division Bench of this Court, the question arose for consideration was, whether the provisions of the Act, 2008 are attracted to a paddy land that was converted prior to the commencement of provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008. Taking into account the various aspects of the Act and fact remaining in the said appeal, it was held that, if the land was converted prior to the commencement of Act, 2008, a party cannot be called upon to restore such land to paddy land under the Act. Paragraphs 4 & 5 are relevant to the context, which read thus:

"4. While counsel for the appellant supports findings of the Collector on the facts pertaining to the nature and identity of the land, Senior Counsel for the first respondent contended that the findings of the Collector are incorrect and in this regard he has referred to the report of the Agriculture Officer referred to in the Collector's report. On going through the impugned judgment of the learned Single Judge, we notice that the Single Judge has not bothered to find out the true nature and character of the land in respect of which Collector passed the order, even though appellant has produced even the photographs which prove that the land has got buildings in it besides rubber and arecanut trees appearing to be planted at least 10 years back. S.3(1) of the Act is as follows:

"3. Prohibition on conversion or reclamation of paddy land.-- (1) On and from the date of commencement of this Act, the owner, occupier or the person in custody of any paddy land shall not undertake any activity for the conversion or reclamation of such paddy land except in accordance with the provisions of this Act."

What is clear from the above is that prohibition is only in respect of conversion or reclamation of paddy land after the commencement of the operation of the Act. The Act admittedly came into force only with effect from 12/08/2008 and so much so, whatever be the conversions of paddy land or wet land made prior to the coming into force of this Act, cannot be said to be a violation of the Act. S.13 of



the Act authorises the District Collector to order reconversion of paddy land and wet land which is converted in violation of the provisions of the Act. S.13 is extracted hereunder for easy reference:

"13. Power of the District Collector.-- Notwithstanding anything contained in this Act, the Collector may take such action, as he deems fit, without prejudice to the prosecution proceedings taken under the Act, to restore the original position of any paddy land reclaimed violating the provisions of this act, and realize the cost incurred in this regard from the holder or occupier of the said paddy land, as the case may be, so reclaimed after giving him a reasonable opportunity of being heard."

When read with S.3 of the Act, what is dear from S.13 is District Collector is empowered to order reconversion of the land only if reclamation or conversion was made after the commencement of the provisions of the Act. Therefore, the question left to be decided is assuming the appellant's adjoining land which is 12.7 ares was originally paddy land, whether reclamation and conversion was made after the commencement of provisions of the Act i.e., 12/08/2008. In this regard we are constrained to observe that if the photographs produced by the appellant which is of the land adjoining one side of the appellant's factory building is the land covered by the Collector's order, then it has to be necessarily held that the land is converted and planted with rubber and arecanut atleast 10 years back. This is because we notice from the photographs that the rubber trees standing in the said land is attached with plastic shades for facilitating tapping during monsoon. Rubber trees have a maturity period of 7 years and so much so, planting would have been done not less than 7 years back. It is not clear from the photographs as to when the tapping started. Further, it is seen that there is mixed crop cultivation in the land with large number of arecanut trees which appear to be not less than 10 years old. Apart from all these, the land has got atleast two buildings as is revealed from the photograph, which also do not appear to be new. In Ext. P16 produced in W.P.(C) No.27855/2011 which is the report of the Local Level Monitoring Committee, it is stated that they have noticed that the land was planted with arecanut trees and appellant was cultivating pineapple also therein. Going by these findings in Ext.P16 report, we feel the photographs produced by the appellant will be of the same land. Even though photographs intrinsically support the case of the appellant that land development, cultivation and building construction were done years back i.e, much before commencement of provisions of the Act and if so, the Collector's order does not warrant any

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interference, we still feel since the first respondent has contested the identity of the land and since all four sides of the particular factory are not seen in the photograph, we leave it to the Collector to identify the land involved i.e., 22.70 ares in the two survey numbers stated above and if it is the land with the buildings and the arecanut plantation and rubber plantation, then he will pass orders confirming the identity which will supplement Ext.P12 order. The Collector is directed to get the identity of the land verified with survey numbers through the Village Officer and if the Village Officer reports that the land has buildings with tapping rubber plantation with yielding arecanut trees as found in the photographs, the Collector will pass orders reconfirming Ext.P12 with specific identity of the land. If the Collector passes fresh orders identifying the land with the description claimed by the appellant and stated above, then all consequences will follow entitling the appellant to utilise the land for his factory purpose and the order of the Tribunal for Local Self Government Institutions will stand confirmed. However, if by any chance the land is not the one as identified by the appellant with the photographs and as described by us above, then the Collector will examine whether any conversion or filling is done after the commencement of the provisions of the Act and if so, he will comply with the judgment of the learned Single Judge for restoration of the land. Writ Appeals are allowed vacating the judgment of the learned Single Judge and with directions as stated above.

5. Before parting with the matter, what we notice is that there is no provision in the Act to help owners of paddy land and wet land which have been rendered unfit for cultivation on account of conversion of adjoining paddy land by it's owners before commencement of the Act. In other words, those who have converted paddy land prior to the commencement of the Act cannot be called upon to restore such land to paddy land under this Act. However, as a consequence of such conversions, paddy land of many other adjoining owners have been rendered unfit for cultivation and by virtue of the provisions of the Act, they are not able to convert and utilise their land for any other purpose. This is certainly injustice to such helpless paddy land owners who are now glorified owners of paddy land or wet land without any returns therefrom. People with muscle and money power and political or official patronage have been converting paddy land in violation of the Land Utilisation Order and while such conversions got regularised, the less influential nearby owners are helpless owners unable to utilise their paddy and wet lands rendered unfit for any use. In our view, wherever paddy or wet land has become unfit for cultivation viably, such land should be



permitted to be converted for suitable use instead of allowing it to be retained as waste land. Government Pleader will forward copy of this judgment to the Government for their consideration."

27. In the judgment in *Aishabeevi and Another v. Superintendent of Police, Ernakulam and others* (2014 (3) KHC 678 : 2014 (2) KLD 505 : 2014 (3) KLT 1078 : 2014 (4) KLJ 58.), this Court considered a similar question, wherein it was held that, since the land in question was converted prior to the commencement of Act, petitioners therein have right to construct building, and further that, there was no bar to grant building permit in respect of any construction in a land converted prior to the commencement of Act, 2008, even if such conversion was made in violation of Kerala Land Utilisation Order. Accordingly, Police protection was granted for the construction of the building. Paragraphs 11 and 12 are relevant to the context, which read thus:

11. The main thrust of the 4th respondent's argument is that no competent authority has passed any order so far to convert the above said paddy land to garden land or to reclassify the land. Thus, the property continues to remain in the same classification as 'Nilam' in the revenue records and title deed. Therefore, the land in question is an illegally converted land and it cannot be used for any purpose other than agricultural purpose in the absence of an order under Land Utilisation Order, 1967 explicitly permitting conversion or reclamation.

The points to be noted from the said contention is that the 4th respondent has no case that on factual verification the property in question is still lying as paddy land suitable for paddy cultivation as defined in the Conservation of Paddy Land and Wet Land Act, 2008 or the property in question was converted to garden land after the commencement of Conservation of Paddy Land and Wet Land Act, 2008. Obviously, it is discernible from the pleadings that 4th respondent is relying on the entries in the revenue records as 'Nilam' and not on the fact as the land exists on ground. It became more clear when the learned counsel advanced an argument, which could not find a place in the pleadings, that the paddy land was converted to garden land in violation of S.6 of the Land Utilisation Order, 1967. Needless to say it amounts to an implied admission that there is no conversion after the commencement of the Conservation of Paddy Land and Wet Land Act, 2008 and the property was converted to garden land before the commencement of Conservation of Paddy Land and Wet Land Act, 2008. It is to be borne in mind that the land in question is one for which Ext.P4 permit is granted by the



Panchayath for construction of a building and no police protection is sought for conversion. To common knowledge, no building can be constructed in a paddy land without conversion. Therefore, it can be safely concluded that not only at present but also at the time of the commencement of the Kerala Conservation of Paddy Land and Wet Land Act, 2008, the property in question was not lying as paddy land.

12. Whether Conservation of Paddy Land and Wet Land Act, 2008 has retrospective operation? This question was settled by another Division Bench of this Court in Jafarkhan v. K. A. Kochumakkar & Others, 2012 (1) KHC 523 : 2012 (1) KLT 491 : 2012 (1) KLJ 607 : ILR 2012 (1) Ker 535.

xxxx xxxx xxxx
xxxx xxxx xxxx
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What is clear from the above is that prohibition is only in respect of conversion or reclamation of paddy land after the commencement of the operation of the Act. The Act admittedly came into force only with effect from 12/08/2008 and so much so, whatever be the conversions of paddy land or wet land made prior to the coming into force of this Act, cannot be said to be a violation of the Act. S.13 of the Act authorises the District Collector to order reconversion of paddy land and wet land which is converted in violation of the provisions of the Act.

28. After analysing the entire pros and cons, it was held in Aishabeevi (supra) that, in view of the legal proposition and survey made in the Land Utilisation Order, 1967 and Act, 2008, there is no provision either in the Land Utilisation Order, 1967 or Act, 2008 prescribing a legal presumption that, in the absence of an order granting conservation of paddy land under Kerala Land Utilisation Order, 1967, the paddy land, which stood converted after the commencement of Land Utilisation Order, 1967, without specific order permitting conversion, shall be presumed to be an illegally converted land, for which no permit for construction of a building can be granted and such land cannot be used for any purpose other than agricultural operations.

29. It was also held that, the Act, 2008 does not say anything about the legal status of the paddy field which stood converted to garden land before the commencement of the above Act without permission under Land Utilisation Order. On the other hand, S.14 of the Act, 2008 imposes a clear bar against the granting of license or permit to carry out any activity or construction in paddy land



converted after commencement of Act, 2008, of which it can be legally presumed that, such a bar is not made applicable to the paddy land, which converted before the commencement of Act, 2008.

30. Relying upon the aforesaid judgments, learned Senior Counsel for the builder submitted that the properties in question situated in a fully developed area and which is not a wetland and paddy land not included in the data bank constituted as per the provisions of Act, 2008 is entitled to be used by the builder in accordance with law without any inhibitions and prohibitions contained under the Kerala Land Utilisation Order, 1967 and Act, 2008.

31. We are conscious of the fact that, as per Exts.P6 and P13 revenue records produced in the writ petitions, the properties were originally paddy fields, however, which was later seen classified as 'purayidam' without defacing the original entry in the revenue records. It is an admitted fact that the builder has purchased the property only on 18/09/2014 and the additional entries in the revenue record as dry land was made during the year 1993 and 1986 respectively. Therefore, the builder is not liable or permitted under the Kerala Land Utilisation Order, 1967 to seek conversion for the utilisation of the property for other purposes other than paddy cultivation. In this context, the judgment of the Apex Court in Revenue Divisional Officer, Fort Kochi and others v. Jalaja Dileep and Another (2015 (2) KHC 109 : 2015 (1) KLD 557 : ILR 2015 (1) Ker. 851 : 2015 (1) KLT 984 : 2015 (2) KLJ 145.) is relevant. The Apex Court had in unequivocal and categorical terms has laid down the law that, the original entry in the BTR cannot be removed. However, held that, if the property is not included in the data bank constituted as per Act, 2008, one is entitled to seek utilisation of the property for other purposes other than paddy cultivation as per the provisions of Kerala Land Utilisation Order, 1967. Paragraphs 18 to 21 are relevant to the context, which read thus:

"18. If a property is included in the Data Bank or the Draft Data Bank prepared under the Wet Land Act, 2008 as a "Paddy Land" or "Wetland" and the classification of land is noted as "Nilam" in revenue records, the provisions of the Act 28/2008 would apply. As noticed earlier, there is ample provision within the Act to grant permission for such land for residential purpose or public purpose as defined in the Act. And as elaborated earlier, if the property is not included in the Data Bank as "Paddy Land" or "Wetland" as defined under Act 28/2008, it is still governed by the provisions of KLU Order, 1967. Thus, State of Kerala has two



statutes - KLU Order, 1967 and Kerala Cultivation of Paddy Land and Wetland Act, 2008 each dealing with delineated areas with respect to preservation, management and process of reclamation of agricultural and paddy land for any other legitimate use.

19. Kerala Land Tax Act, 1961 is an Act to provide for levy of basic tax of land in the State of Kerala. High Court directed correction of Basic Tax Register (BTR) under S.18 of Kerala Land Tax Act to order change of nature of land. The change of nature of the land with the passage of time cannot be regarded as a conversion which can be rectified under S.18 of the KLT Act. S.18 of KLT Act provides for rectification of mistakes. S.18 reads as follows:--

"18. Rectification of mistakes.-- At any time within four years from the date of any order passed by it the prescribed authority or the appellate authority or the revisional authority may, on its own motion, rectify any mistake apparent from the record and shall, within a like period, rectify any such mistake which has not been brought to the notice of the prescribed authority or the appellate authority or the revisional authority, as the case may be, by a land - holder or other person liable to pay tax:

Provided that no such rectification shall be made which has the effect of enhancing the tax payable unless the landholder and any other person liable to pay tax have been given a reasonable opportunity of being heard in the matter."

20. By the perusal of the above provision, it is evident that the rectification of mistake narrated in S.18 relates to the apparent mistake on the face of the record in relation to any order passed by the prescribed authority, Appellate authority or the revisional authority under the Act. Therefore, the rectification of mistake can only be in respect of proceedings or orders passed by the original authority, Appellate authority or the revisional authority.

21. Statutory enquiry to ascertain whether the land is a "Paddy Land" or "Wetland" and conversion of the land for residential purpose or for any public purpose is governed by KLU Order or the Kerala Wetland Act, 2008 for conversion of the land from "Nilam" (Wetland) to 'Purayidam' (Dry Land). The concerned authorities constituted under KLU Order or Kerala Wetland Act, 2008 are the competent authority. Nature of the land cannot be changed or converted by directing changes in the Basic Tax Register which is maintained only for the purpose of land tax. The rectification envisaged by S.18 of Kerala Land Tax Act can only be in respect of arithmetical or clerical error, that too in the order of determining the tax due. S.18 cannot be made use or the same cannot be taken



as a means to effect conversion of the nature of the land by - passing the competent authority and the procedure stipulated under the KLU Order, 1967 and the Kerala Wetland Act, 2008 and the impugned judgment is liable to be set aside."

32. Anyhow, thereafter a Division Bench of this Court in Local Level Monitoring Committee, Kizhakkambalam v. Mariumma (2015 (3) KHC 19 : 2015 (1) KLD 915 : 2015 (2) KLT 516 : 2015 (2) KLJ 861.) has held that, there is no prohibition for making any additional entries in the revenue records without defacing the original entry. Paragraph 9 is relevant to the context, which read thus:

"9. The further issue raised before us by the learned Government Pleader was that in view of the directions of the Apex Court as contained in paragraph 21 extracted above, even if the authorities under the Kerala Land Utilization Order, 1967 pass an order in favour of the respondents, there cannot be any correction of entries in the Basic Tax Register maintained under the Kerala Land Tax Act. This contention was raised in the context of the principles laid down in the judgment that rectification as envisaged by S.18 of the Kerala Land Tax Act can only be in respect of arithmetical or clerical error, that too in the order of determining the tax due. Though it is true that in the judgment of the Apex Court, it has been held as above, that principle has been laid down by the Apex Court in the background of S.18 providing for rectification of mistakes. In our view, if an order is passed by the authority under the Kerala Land Utilization Order or Act 28 of 2008 changing the description of the land, that cannot lead to a situation where S.18 is attracted. On the other hand, such change of the description of the land would render the assessments already made under S.6A of the Kerala Land Tax Act, 1961 redundant and instead what is called for is a fresh assessment in accordance with the said Act. Necessarily, as a consequence of such assessment, it would be open to the authorities also to make appropriate additions to the Basic Tax Register. Such a course, in our view, is not forbidden by any of the principles laid down by the Apex Court, particularly those contained in paragraph 21 of the judgment mentioned above."

33. Having appreciated the rival submissions, the pleadings and the documents on record, we are of the considered opinion that, the properties in question were converted prior to the introduction of Act, 2008 and additions are made in the revenue records classifying the land as 'purayidam' much prior to the property was purchased by the builder, evident from Ext.P1 document dated 18/09/2014.



Bearing in mind the provisions of law discussed above, the requirements under law, the proposition of law laid down in the aforequoted judgments, and that the area in question is built up with several buildings and structures, we are of the considered opinion and view that, there is no legal basis enabling the Residents Association to secure any reliefs as is sought for in W.P.(C) No.33717/2016. Therefore, they have no right, legally and morally to obstruct the constructions carried out by the builder in accordance with law and in terms of the building permit and the approved plan secured by the builder.

34. In that view of the matter, we have no hesitation to hold that, the builder is entitled to get Police protection, if any obstructions are created by the Residents Association, and if the construction is carried out by the builder in accordance with law. Therefore, there will be a direction to the 1st respondent Circle Inspector of Police, Kalamassery to provide adequate protection to the National Builders, if any obstruction is created by the members of the Mather Nagar Residents Association, or at their behest, to carry out the construction in accordance with the plan and permit issued by the Kalamassery Municipality and in accordance with law.

Resultantly, W.P.(C) No.34983/2016 is allowed and W.P.(C) No.33717/2016 is dismissed.

This is the true copy of the document referred to and marked as Annexure.R.4 (C) in the reply statement.

Advocate



**2018 (1) KHC 250
Kerala High Court
P. B. Suresh Kumar, J.**

Annexure.R.4 (D)

Suraj K. S. and Another v. State of Kerala and Others
Parallel citation(s): 2018 (1) KHC 250 : ILR 2018 (1) Ker. 445 : 2018 (1) KLJ 692 :
2018 (1) KLT 1

Kerala Conservation of Paddy Land and Wetland Act, 2008 -- S.2(xviii) -- Definition of wetland -- Examined -- Word 'systems' contained in the definition refers to ecosystems -- Natural lands lying between terrestrial ecosystems and aquatic ecosystems in the State alone would fall within the ambit of the definition -- Land which was originally a paddy land, would never fall within the definition of 'wetland' under the Act -- Kerala Conservation of Paddy Land and Wetland Rules, 2008, Rule 4 -- Constitution of India, Art.226

Held: As held by this Court in Asma v. District Collector, 2015 KHC 2389, the wetlands brought under the purview of the Act are natural lands lying between terrestrial and aquatic systems. If one understands the scope of the definition in the context of the Act, It is evident that the word 'systems' contained in the definition refers to ecosystems. In other words, natural lands lying between terrestrial ecosystems and aquatic ecosystems in the State alone would fall within the ambit of the definition. If this was the legislative intention, the land which was originally a paddy land, even if it is admitted so, would never fall within the definition of 'wetland' under the Act. The case of the organisation referred to above that the paddy land referred to by them in their report was interspersed by wetlands also would not improve the case of the petitioners in the light of the definition of 'wetland' contained in the Act

Important Para(s):11

Coastal Regulation Zone Notification 2011 -- Canals in the land connected to a tidal influenced water body -- Whether CRZ Notification would apply to the land -- When land is situated about 250 metres away from the nearest river, it cannot be said that land would fall within any of the declared CRZ



zones -- Even if it is taken that the canals in the land are connected to a tidal influenced water body, restrictions would not apply to the land since the said land would not fall within any of the declared CRZ zones -- Constitution of India, Art.226

Held: There is nothing on record to indicate that the canals in the land in question are connected to a tidal influenced water body. Even if it is taken that the canals in the land in question are connected to a tidal influenced water body, the restrictions would not apply to the land of the ninth respondent since the said land would not fall within any of the declared CRZ zones. This aspect is evident from the report filed by the Local Level Monitoring Committee in this matter pursuant to the interim order dated 10/04/2017. In the said report, it is stated that the land of the ninth respondent is situated about 250m. away from the nearest river. The contention of the petitioners that the proposed activity of the ninth of respondent is one prohibited by the CRZ Notification is also, therefore, rejected

Important Para(s):13

Coastal Regulation Zone Notification 2011 -- In order to attract the prohibition under CRZ Notification, the area in question shall be a notified Coastal Regulation Zone -- Further, water bodies concerned shall be water bodies having tidal influence

Important Para(s):13

Kerala Conservation of Paddy Land and Wetland Act, 2008 -- S.3 -- Statute does not contemplate inclusion of any land which is not shown as wetland in revenue records, as wetland in the Data Bank to be prepared under the Act

Important Para(s):12

Referred: Asma v. District Collector, 2015 KHC 2389; Referred to

Advocates:

15/09/2021
Harish; P. G. Suresh; G. Sudheer (Thuravoor); For



Petitioners

Jaffar Khan; Prakash C. Vadakkan J.; M. P. Prakash; Philip T. Varghese; Thomas T. Varghese; Achu Subha Abraham; K. R. Monisha; C. K. Karunakaran; Jophy Pothan Kandankary; For Respondents

JUDGMENT

1. Petitioners are persons residing within the limits of the seventh respondent Panchayat. The grievance voiced by the petitioners in the writ petition concerns the industrial unit proposed to be established by the ninth respondent in the said panchayat.

2. The undisputed facts are the following : During 2015, the ninth respondent, a private limited company purchased 4.0632 hectares of land within the limits of the panchayat for establishing a seafood related industrial unit. There were a few water channels in the said land. Earlier, the predecessors of the ninth respondent were interdicted from reclaiming the water channels in the land by the sixth respondent, the Village Officer by issuing a stop memo. Though the matter was taken up by the predecessors of the ninth respondent before the third respondent, the District Collector for vacating the stop memo, the third respondent confirmed the stop memo as per Ext.P3 order holding that the land is a wetland falling within the purview of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (the Act). The predecessors of the ninth respondent though moved the third respondent later for review of Ext.P3 order, the request made by them in that connection was also declined by the third respondent as per Ext.P4 order. The ninth respondent who purchased the land in the meanwhile moved the third respondent for vacating the stop memo and on the said request, the third respondent initially permitted the ninth respondent to conduct an Environmental Impact Study for the project proposed to be established by them by engaging M/s. KITCO Ltd., a technical consultancy organisation and later vacated the stop memo as per Ext.P8 order based on the report of M/s. KITCO Ltd., holding that the project would not offend any statutory provisions or create any impact on the environment. In the meanwhile, the ninth respondent applied to the fourth respondent, the Chief Town Planner for layout approval for construction of the buildings required for the industrial unit. On the said application, though layout approval was granted by the fourth respondent as per Ext.P9 order, the same was subject to the condition that the building permit shall be issued by the

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panchayat only after the grievances of the persons residing around the industrial unit are redressed. On the strength of Ext P8 order, the ninth respondent later moved the fourth respondent for vacating the aforesaid condition in Ext P9 order and the fourth respondent has vacated the said condition as per Ext P10 order. Later, on the strength of Exts P8 and P10 orders, the ninth respondent obtained Ext P1 building permit and started the construction of the industrial unit.

3. The writ petition was filed at that point of time alleging that the Local Level Monitoring Committee constituted under the Act had in fact inspected the land during 2013 and having found that the same is a wetland coming within the purview of the Act, recommended for action as per Ext P12 for restoration of the land under the Act. It was also alleged by the petitioners that on the basis of the said recommendation, the first petitioner preferred an application before the fifth respondent, the Local Level Monitoring Committee to include the said land also in the Data Bank prepared under the Act as wet land and the same is pending. According to the petitioners, the land purchased by the ninth respondent being a wetland, the establishment of the proposed industrial unit in the said land would contravene the provisions of the Act. It is also the case of the petitioners that establishment of an industrial unit in the aforesaid land would contravene the provisions of the 2011 Coastal Regulation Zone Notification (the CRZ Notification) issued under the Environment (Protection) Act. It is the further case of the petitioners that the land of the ninth respondent, at any rate, would fall within the definition of 'wetland' contained in Rule 2(g) of Wetland (Conservation and Management) Rules, 2010 framed under the Environment (Protection) Act and therefore, an industrial unit cannot be established in the said land in the light of the provisions contained in the said Rules. The petitioners, therefore, challenge Ext.P8 order of the third respondent, Ext.P9 order the fourth respondent and Ext.P1 building permit issued by the seventh respondent in this writ petition on that basis. Petitioners are also claiming directions to the fifth respondent to include the land of the ninth respondent in the Data Bank prepared under the Act, and directions to the third respondent to act upon Ext.P12 recommendation of the third respondent and take steps to restore the land to its original position.

4. The ninth respondent has filed a counter affidavit on 31/08/2016 stating, among others, that the writ petition is one instituted with ulterior motives to blackmail and extract money from the ninth respondent; that the industrial unit

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proposed by them is one which is being established in collaboration with a Mauritius Company; that the said project is the largest foreign investment project in the country in the sea food sector; that the irrigation channels existed in the land purchased by them are retained even now; that the land purchased by them is a 'garden land' as per the revenue records and that the said land is not a wetland or one included in the Data Bank prepared under the Act as wet land. It is also stated by the ninth respondent in the said counter affidavit that their project is one cleared by the State Single Window Clearance Board consisting of the Chief Secretary of the State and representatives of all the State departments concerned with the establishment of industrial units and they have obtained all the requisite permissions and licences required for establishing the industrial unit. It is also stated by the ninth respondent in the counter affidavit that though there was no statutory requirement to obtain environment impact assessment studies for projects in the nature of the one proposed by them, the third respondent suggested to them to conduct an Environmental Due Diligence in the light of the complaints received from the inhabitants of the locality and that Environment Due Diligence was conducted by them in the circumstances by engaging M/s. KITCO Ltd. It is also contended by the ninth respondent in the counter affidavit that it was revealed in the said study that the project does not pose any threat to the environment. As regards the recommendation made by the Local Level Monitoring Committee, it is stated by the ninth respondent in the counter affidavit that the convenor of the Local Level Monitoring Committee has inspected the property purchased by them on a request made by them and informed them as per Ext.R9(I) communication on the basis of the said inspection that the land purchased by them is a coconut garden with water channels.

5. A statement has been filed on behalf of the third respondent in the matter disclosing that the land of the ninth respondent is a 'garden land' as per the revenue records and that the same is not one included in the Data Bank prepared under the Act as wetland. It is explained in the said statement that the ninth respondent had submitted a request on 07/04/2015 to lift the stop memo issued in respect of the land in terms of Exts.P3 and P4 orders; that the Tahsildar concerned has stated in the report obtained on the said request that the inhabitants in the locality are anxious about the project; and that the Environmental Due Diligence was directed to be conducted in the said circumstances. It is stated in the statement that the stop memo was withdrawn since it was found in the said study that the project would not create any



environmental impact/imbalance in the locality. It is also stated by the third respondent in the said statement that there would not be any depletion in the ground water levels also on account of the project as claimed by the petitioners.

6. An affidavit has been filed by the petitioners in reply to the counter affidavit filed by the ninth respondent as also to the statement preferred by the third respondent. In the said reply affidavit, it is stated by the petitioners that the fifth respondent has conducted a further inspection in the property of the ninth respondent on 26/08/2016 and has decided, on the basis of the said inspection, to include the land of the ninth respondent also in the Data Bank prepared under the Act as wetland.

7. A counter affidavit has been filed by the first respondent, the State Government, in the matter on 13/02/2017 reiterating the stand taken by the third respondent. In addition, it is also stated in the said counter affidavit that Exts.P3 and P4 orders have been issued by the third respondent without ascertaining the true facts; that there was no pond or water channel in the land as per the revenue records and that the water channels existed in the property are man made for the purpose of irrigation as per the practice prevalent at the relevant time for ensuring water presence in the area. It is also stated by the Government in the counter affidavit that the decision of the Local Level Monitoring Committee to include the land in the Data Bank prepared under the Act and the recommendation made by them to initiate action for restoration of the land to its original position ignoring the entries in the revenue records pertaining to the land are unsustainable. It is also stated in the counter affidavit that the project would not violate the provisions contained in the CRZ Notification.

8. Heard the learned counsel for the petitioners, the learned Government Pleader as also the learned counsel for the ninth respondent.

9. The specific case of the petitioners in the writ petition is that the land of the ninth respondent where they propose to establish the industrial unit is a wetland falling within the purview of the Act and it is on that basis, they seek reliefs in the writ petition. The case of the ninth respondent, on the other hand, is that the land which they own is a garden land and the provisions of the Act would not, therefore, apply to the same. The State Government and the District Collector support the case of the ninth respondent. All of them rely on the revenue records to substantiate the said case. The fact that the land in

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question is a garden land in terms of the revenue records is not in dispute. Likewise, the fact that the same is not included in the Data Bank prepared under the Act is also not in dispute. Of course, if there is a mistake in the Data Bank, the same can be rectified even now. As such, the first and foremost question to be decided is as to whether the land of the ninth respondent is one which would fall within the scope of the Act.

10. It is seen that out of the large extent of land held by the predecessors of the ninth respondent, the ninth respondent has purchased only a portion having an extent of 4.0632 hectares comprised in survey numbers 286/1 and 286/2 of Vallivattom Village. Exhibit R9(I) is a communication sent by the Convener of the Local Level Monitoring Committee to the representative of the ninth respondent. In the said communication, it is stated that the land is lying as bunds and canals and that there are coconut palms in the bunds. The ninth respondent as also the State Government admit in their pleadings that there are canals in the land in question. According to them, they are man made canals formed for the purpose of irrigation as per the agricultural practices then prevailing in the area and merely for the reason that there are man made canals in a land, it cannot be treated as wetland. Ext.P19 is the preliminary appraisal of the project of the ninth respondent made by an organisation called Salim Ali foundation at the instance of the petitioners. Ext.P19 being a document prepared at the instance of the petitioners, no credibility can be attached to the same. Nevertheless, it is seen that the stand taken by the organisation referred to above in Ext.P19 preliminary appraisal, is that the land of the ninth respondent was originally a paddy land interspersed with wetlands and later, about five decades back, in order to plant coconut palms, a series of bunds were created towards the periphery of the land by digging out soil from either side. According to them, the wetlands in the area were accordingly altered into a system of network of canals and bunds, often interconnecting them. In other words, even according to the petitioners, the canals in the land are man made.

11. The Act is one brought into force to conserve the Paddy land and Wetland in the State in order to promote growth in the agricultural sector and to sustain the ecological system. Section 2(xviii) of the Act defines 'wetland' thus;
(xviii) "wetland" means land lying between terrestrial and aquatic systems, where the water table is usually at or near the surface or which is covered by shallow water or characterized by the presence of sluggishly moving or standing water,

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saturating the soil with water and includes backwaters, estuary, fens, lagoon, mangroves, marshes, salt marsh and swamp forests but does not include paddy lands and rivers;

As held by this Court in Asma v. District Collector, 2015 KHC 2389 : 2015 (1) KLT 30, the wetlands brought under the purview of the Act are natural lands lying between terrestrial and aquatic systems. If one understands the scope of the definition in the context of the Act, It is evident that the word 'systems' contained in the definition refers to ecosystems. In other words, natural lands lying between terrestrial ecosystems and aquatic ecosystems in the State alone would fall within the ambit of the definition. If this was the legislative intention, the land which was originally a paddy land, even if it is admitted so, would never fall within the definition of 'wetland' under the Act. The case of the organisation referred to above that the paddy land referred to by them in their report was interspersed by wetlands also would not improve the case of the petitioners in the light of the definition of 'wetland' contained in the Act.

12. Further, provisions contained in Rule 4 of the Kerala Conservation of Paddy Land and Wetland Rules, 2008 ('the Rules') dealing with the preparation of Data Bank under the Act indicate beyond doubt that the Village Officer concerned has to satisfy, based on revenue records, the existence of wetlands and only such wetlands are liable to be included in the Data Bank to be prepared under the Act. Sub-rule (2) of Rule 4 of the Rules reads thus:

“(2) (1)-ാം ഉപചട്ടപ്രകാരം നിലവിലുള്ള കൃഷിയോഗ്യമായ നെൽവയലുകളുടെയും തണ്ണീർത്തടങ്ങളുടെയും വിശദവിവരങ്ങളടങ്ങിയ ഡേറ്റാബാങ്ക് തയ്യാറാക്കുന്നതിലേക്ക് താഴെപ്പറയുന്ന നടപടിക്രമം പാലിക്കേണ്ടതാണ്, അതായത്:□

(എ) സമിതിക്ക് അധികാരിതയുള്ള പ്രദേശത്തെ നിലവിലുള്ള റവന്യൂ റിക്കാർഡുകൾ പ്രകാരം കൃഷിയോഗ്യമായ നെൽവയലായി രേഖപ്പെടുത്തിയിട്ടുള്ള ഭൂമിയുടെ വിശദാംശങ്ങൾ ബന്ധപ്പെട്ട വില്ലേജ് ഓഫീസർ ബന്ധപ്പെട്ട കൃഷി ഓഫീസർക്ക് നൽകേണ്ടതും ഇതിന്റെ അടിസ്ഥാനത്തിൽ കൃഷി ഓഫീസർ, ഓരോ സ്ഥലവും പരിശോധിച്ച് പ്രസ്തുതസ്ഥലം ഇപ്പോൾ നെൽകൃഷിക്ക് അനുയോജ്യമായ നെൽ വയൽ ആണോയെന്ന് പരിശോധിച്ചും തണ്ണീർത്തടങ്ങളെ സംബന്ധിച്ച റവന്യൂ റിക്കാർഡുകളുടെ അടിസ്ഥാനത്തിൽ വില്ലേജ് ഓഫീസർ സ്ഥലപരിശോധന നടത്തിയും ബോധ്യപ്പെടേണ്ടതും അപ്രകാരം പരിശോധന നടത്തി ബോധ്യപ്പെട്ട വിവരങ്ങളുടെ അടിസ്ഥാനത്തിൽ, കൃഷി ഓഫീസറും വില്ലേജ് ഓഫീസറും കൂടി നെൽവയലുകളുടെയും തണ്ണീർത്തടങ്ങളുടെയും ഒരു കരട് ഡേറ്റാബാങ്ക് തയ്യാറാക്കി സമിതിയുടെ പരിഗണനയ്ക്ക് സമർപ്പിക്കേണ്ടതുമാണ്.

(ബി) (എ) ഖണ്ഡപ്രകാരം ലഭിച്ച കരട് ഡേറ്റാബാങ്ക് സമിതി പരിശോധിക്കേണ്ടതും ആവശ്യമെങ്കിൽ, യുക്തമായ തിരുത്തലുകൾ വരുത്തേണ്ടതുമാണ്. സമിതിയുടെ അധികാരപരിധിക്കുള്ളിലെ നെൽവയലുകളുടെയും തണ്ണീർത്തടങ്ങളുടെയും പ്രസ്തുത കരട്



ഡേറ്റാബാങ്ക്, നാഷണൽ റിമോർട്ട് സെൻസിങ്ങ് ഏജൻസിയോ, സംസ്ഥാന ഭൂവിനിയോഗ ബോർഡോ, ഭൗമശാസ്ത്ര പഠനകേന്ദ്രമോ

(CESS),

ഇൻഫോർമേഷൻ കേരളാ മിഷനോ

(IKM),

മറ്റേതെങ്കിലും കേന്ദ്ര/സംസ്ഥാന ശാസ്ത്ര സാങ്കേതികസ്ഥാപനമോ, ഉപഗ്രഹചിത്രങ്ങളുടെ അടിസ്ഥാനത്തിൽ തയ്യാറാക്കിയിട്ടുള്ള ഭൂപടത്തിന്റെ സഹായത്തോടെ പരിശോധിച്ച് അന്തിമരൂപം നൽകി സമിതി അംഗീകരിക്കേണ്ടതാണ്. എന്നാൽ ഈ ഉപചട്ടപ്രകാരം കരട് ഡേറ്റാബാങ്ക് തയ്യാറാക്കുമ്പോൾ ഉപഗ്രഹത്തിന്റെ അടിസ്ഥാനത്തിൽ ഏറ്റവും അവസാനം തയ്യാറാക്കിയ ഡേറ്റാബാങ്ക് ആയിരിക്കണം അവലംബിക്കേണ്ടത്."

It is thus evident that the Statute does not contemplate inclusion of any land which is not shown as wetland in the revenue records, as wetland in the Data Bank to be prepared under the Act. The case of the petitioners that the land of the ninth respondent is a wetland coming within the purview the Act is therefore, rejected.

13. The next question is whether the restrictions under the CRZ Notification would apply to the land of the ninth respondent. The third respondent as also the State Government have supported the case of the ninth respondent in this context also contending that the land in question is not covered by the CRZ Notification. The specific case of the petitioners in ground C of the writ petition is that the proposed activity of the ninth respondent is one prohibited under the CRZ Notification. In order to attract the prohibition, the area in question shall be a notified Coastal Regulation Zone (CRZ). Further, the water bodies concerned shall be water bodies having tidal influence. The following are the five declared Coastal Regulation Zones notified under the CRZ Notification:

- "(i) the land area from High Tide Line (hereinafter referred to as the HTL) to 500mts on the landward side along the sea front.
- (ii) CRZ shall apply to the land area between HTL to 100 mts or width of the creek whichever is less on the landward side along the tidal influenced water bodies that are connected to the sea and the distance upto which development along such tidal influenced water bodies is to be regulated shall be governed by the

distance upto which the tidal effects are experienced which shall be determined based on salinity concentration of 5 parts per thousand (ppt) measured during the driest period of the year and distance upto which tidal effects are experienced shall be clearly identified and demarcated accordingly in the Coastal Zone Management Plans (hereinafter referred to as the CZMPs).

Explanation.-- For the purposes of this sub-paragraph the expression tidal influenced water bodies means the water bodies influenced by tidal effects from sea, in the bays, estuaries, rivers, creeks, backwaters, lagoons, ponds connected to the sea or creeks and the like.

(iii) the land area falling between the hazard line and 500mts from HTL on the landward side, in case of seafront and between the hazard line and 500mts line in case of tidal influenced water body the word 'hazard line' denotes the line demarcated by Ministry of Environment and Forests (hereinafter referred to as the MoEF) through the Survey of India (hereinafter referred to as the Sol) taking into account tides, waves, sea level rise and shoreline changes.

(iv) land area between HTL and Low Tide Line (hereinafter referred to as the LTL) which will be termed as the intertidal zone.

(v) the water and the bed area between the LTL to the territorial water limit (12 Nm) in case of sea and the water and the bed area between LTL at the bank to the LTL on the opposite side of the bank, of tidal influenced water bodies."

There is nothing on record to indicate that the canals in the land in question are connected to a tidal influenced water body. Even if it is taken that the canals in the land in question are connected to a tidal influenced water body, the restrictions would not apply to the land of the ninth respondent since the said land would not fall within any of the declared CRZ zones. This aspect is evident from the report filed by the Local Level Monitoring Committee in this matter pursuant to the interim order dated 10/04/2017. In the said report, it is stated that the land of the ninth respondent is situated about 250m. away from the nearest river. The contention of the petitioners that the proposed activity of the ninth of respondent is one prohibited by the CRZ Notification is also, therefore, rejected.

14. The question remaining to be considered is whether the land of the ninth respondent is one which would fall within the scope of 'wetland' covered by the Wetland (Conservation and Management) Rules, 2010 (the Wetland Rules). The definition of 'wetland' contained in the Wetland Rules reads thus;

"wetland" means an area or of marsh, fen, peatland or water; natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or



salt, including areas of marine water, the depth of which at low tide does not exceed six meters and includes all inland waters such as lakes, reservoir, tanks, backwaters, lagoon, creeks, estuaries and manmade wetland and the zone of direct influence on wetlands that is to say the drainage area or catchment region of the wetlands as determined by the authority but does not include main river channels, paddy fields and the coastal wetland covered under the notification of the Government of India in the Ministry of Environment and Forest, S.O. number 114(E) dated the 19th February, 1991 published in the Gazette of India, Extraordinary Part II, S.3, sub-section (ii) of dated the 20th February, 1991;"

As noted above, even according to the petitioners, the water bodies in the land of the ninth respondent are river channels. River channels are specifically excluded from the definition of 'wetland' contained in the Wetland Rules. Further, protected wetlands under the Wetland Rules are the wetlands referred to in Rule 3 of the Wetland Rules. Rule 3 reads thus:

"3. Protected wetlands.-- Based on the significance of the functions performed by the wetlands for overall well being of the people and for determining the extent and level of regulation, the following wetlands shall be regulated under these rules, namely:--

- (i) wetlands categorized as Ramsar Wetlands of International Importance under the Ramsar Convention as specified in the Schedule.
- (ii) wetlands in areas that are ecologically sensitive and important, such as, national parks, marine parks, sanctuaries, reserved forests, wildlife habitats, mangroves, corals, coral reefs, areas of outstanding natural beauty or historical or heritage areas and the areas rich in genetic diversity;
- (iii) wetlands recognized as or lying within a UNESCO World Heritage Site;
- (iv) high altitude wetlands or high altitude wetland complexes at or above an elevation of two thousand five hundred metres with an area equal to or greater than five hectares;
- (v) wetlands or wetland complexes below an elevation of two thousand five hundred metres with an area equal to or greater than five hundred hectares.
- (vi) any other wetland as so identified by the Authority and thereafter notified by the Central Government under the provisions of the Act for the purposes of these rules."

The petitioners have no case that the land of the ninth respondent would fall under any one of the six categories of wetlands covered by Rule 3 of the Wetland Rules. This question is also, therefore, answered against the petitioners.



The writ petition, in the circumstances, is devoid of merits and the same is, accordingly, dismissed.

This is the true copy of the document referred to and marked as Annexure.R.4 (D) in the reply statement.

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Advocate

**2014 KHC 3705
Supreme Court**

***Gyan Sudha Misra; Pinaki Chandra Ghose, JJ.**

Jal Mahal Resorts Private Limited v. K. P. Sharma And Others
Parallel citation(s): 2014 KHC 3705 : 2014 (8) SCC 804

Constitution of India -- Art 226, Art.136, Art.32 -- Public Private Partnerships (PPP) -- Tourism project -- Project approved after detailed assessment by experts -- PIL alleging that entire lease land was land diverted from lake / wetland -- Held, unless the detailed project report, Master Plans of Jaipur, and revenue records indicating the nature of the lease land can be doubted on cogent grounds, and unless it can be established that the project was fraught with risk of environmental degradation based on facts and figures, and that the decision is not in public interest, interference by Court adopting an overall view smelling foul play at every level of administration is bound to make governance an impossibility

Important Para(s):12, 55, 59

Administrative Law -- Judicial Review -- There has to be a boundary line while examining the correctness of an administrative decision taken by the State or a Central Authority after due deliberation and diligence which do not reflect arbitrariness or illegality in its decision and execution -- If such equilibrium in the matter of governance gets disturbed, development is bound to be slowed down and disturbed, especially in an age of economic liberalisation wherein global players are also involved as per policy decision

Important Para(s):138

Constitution of India -- Art.14 -- Distribution of State Largesse / Government Contracts / Projects -- As matter of business reality and investors / bidders without any bid or auction at all is a fully valid manner of creating infrastructure where it is non existent, especially in nascent areas and



projects in new areas -- Global tender by which PPP project was awarded to appellant found to be transparent, open and valid

Important Para(s):121

Land Laws -- Jaipur Development Authority Act, 1982, S.21, S.26, S.54 -- Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974, R.18 -- Government Grants, Largesse, Public Property and Premises -- Lease granted for 99 yrs -- Maximum period for lease permitted by the Rules was not more than 30 yrs -- Held, lease shall stand reduced to a period of 30 yrs only which is the maximum term of lease as per the Rules

Important Para(s):143

Environment -- Wetlands (Conservation and Management) Rules, 2010 -- Applicability -- Mansagar Lake Precincts Lease Agreement Project -- Other than 8. 65 ac and 14. 15 ac the lease land undisputedly was not "wetland" -- Hence Wetland Rules of 2010 are not applicable

Important Para(s):148

Constitution of India -- Art.32, Art.226 -- Government Contracts / Tenders -- Open and transparent global tender -- When there is substantial compliance with the terms of tender, the Government is entitled to waive any non essential term in the tender for bona fide reasons and in public interest -- Held, since the Project in terms of RFP had to be executed through a Special Purpose Vehicle and the appellant being such an SPV of the lead bidder, then it is not a violation of a substantial condition of the tender -- Finding given by the High Court is perverse and cannot be sustained and deserves to be set aside

Important Para(s):108, 116

Advocates:

Sahasranamam P.B., Adv, Ekm.
20/10/2021



1. Leave granted. These appeals by way of special leave have been preferred against the common judgment and final order dated 17-5-2012 passed by the High Court of Judicature of Rajasthan at Jaipur Bench, Jaipur in three public interest litigation petitions filed by the petitioners, K. P. Sharma, Dharohar Bachao Samiti, Rajasthan and Heritage Preservation Society, respectively against the State of Rajasthan and the beneficiary of the project who was Respondent 7 in the High Court and is now the appellant - petitioner in the civil appeal [arising out of SLP (C) No. 17701 of 2012]. The three petitions were DB Civil Writ (PIL) Petition No. 6039 of 2011, DB Civil Writ (PIL) Petition No. 5039 of 2010 and DB Civil Writ (PIL) Petition No. 4860 of 2010 whereby the Division Bench of the High Court was pleased to cancel an Environment and Monument Improvement / Preservation and Tourism Development Project at Jaipur by declaring it as illegal which was awarded to the appellant - petitioner, Jal Mahal Resorts (P) Ltd. via global tender floated in 2003 and finally granted in 2005 after all requisite approvals as per the appellant - petitioner under the environmental law including environment impact assessment under the Environment Protection Act and the notifications issued thereunder of the Rajasthan Pollution Control Board. However, in view of the cancellation of the Project, the High Court has directed immediate dismantling and removal of the entire project and diversion of the two drains which was done to purify waters of a manmade artificial water body and detritus.

2. Other three special leave petitions bearing SLPs (Civil) Nos. 22467, 22820 and 24341 of 2012 had also been preferred by the State of Rajasthan challenging the impugned judgment and order of the High Court referred to hereinbefore. But after the arguments were finally advanced by the learned Attorney General and the same also stood concluded, permission of this Court was sought by the Senior Counsel Shri Jaydeep Gupta to withdraw these special leave petitions filed by the State of Rajasthan which were permitted by this Court vide order dated 5-2-2014 Jal Mahal Resorts (P) Ltd. v. K. P. Sharma, 2014 (8) SCC 866. The petitions preferred by the State of Rajasthan assailing the impugned judgment and order thus stand dismissed as withdrawn. However, Shri Gupta submitted that he can still address the Court on merit in the connected special leave petitions bearing SLPs (Civil) Nos. 17701, 19239 and 19240 of 2012 preferred by the appellant - petitioner Jal Mahal Resorts (P) Ltd. and others against the PIL petitioners before the High Court since the State of Rajasthan is still a party respondent in these matters and hence it can support or oppose the



impugned judgment of the High Court in spite of withdrawal of the special leave petition filed by the State assailing the judgment and order of the High Court. However, at this juncture we refrain from expressing further on its implication and would deal with the same, if necessary, at the appropriate stage.

3. Insofar as the appeal preferred by the appellant M/s Jal Mahal Resorts (P) Ltd. is concerned, we have noticed that the appeal has been preferred against the common judgment and order of the High Court under challenge herein whereby the writ petitions which were filed by the respondents as public interest litigation bearing DB CWP (PIL) No. 6039 of 2011 entitled K. P. Sharma v. State of Rajasthan as also DB CWP (PIL) No. 5039 of 2010 entitled Dharohar Bachao Samiti Rajasthan v. State of Rajasthan, as also the third writ petition bearing DB CWP (PIL) No. 4860 of 2010 entitled Heritage Preservation Society Rajasthan v. State of Rajasthan, have been allowed by the Division Bench of the High Court and resultantly the Mansagar Lake Precincts Lease Agreement dated 22-11-2005 awarding 100 ac of land on lease for a period of 99 years to Respondent 7, the appellant herein M/s Jal Mahal Resorts (P) Ltd. was declared illegal and void.

4. As a consequence of the same, the appellant Jal Mahal Resorts (P) Ltd. has been directed to bear costs to be incurred in restoration of the original position of 100 ac of land in removing the soil filled in by it and to restore back the possession of land to Rajasthan Tourism Development Corporation ("RTDC", for short) which in turn will hand over the land to Jaipur Development Authority ("JDA", for short), Jaipur Municipal Corporation ("JMC", for short) and the State of Rajasthan. The appellant has further been directed to immediately remove all sedimentation and settling tanks from Mansagar Lake Basin and to realise costs from M/s Jal Mahal Resorts (P) Ltd. and to examine restoring position of Nagtalai and Brahampuri Nallah (drains) to their original position as redesigned by RUIDP under Mansagar Lake Restoration Plan in consultation with the Ministry of Environment and Forests ("MoEF" for short) of the Central Government.

5. The respondent authorities of the State of Rajasthan have been further directed to monitor, maintain and refix boundaries of Mansagar Lake in its full original length, breadth and depth in consultation with MoEF of the Central Government and not to reduce normal water level. All encroachments made in the attachment area of Mansagar Lake have been ordered to be removed immediately and the control erected by appellant M/s Jal Mahal Resorts (P) Ltd.

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into the Lake is ordered to be dismantled and costs have been ordered to be realised from the appellant M/s Jal Mahal Resorts (P) Ltd. All the three writ petitions were thus disposed of by the High Court.

6. Before we deal with the respective case and counter - case of the contesting parties, it may be relevant and appropriate to state the background of the matter giving rise to these appeals. The writ petitions which have been dealt with by the High Court had been filed in public interest to quash Jal Mahal Tourism Project and cancel the Mansagar Lake precincts lease agreement dated 22-11-2005 giving 100 ac of land on lease for a period of 99 years to Respondent 7 [the appellant herein M/s Jal Mahal Resorts (P) Ltd.] and the Jal Mahal Lease and Licence Agreement dated 22-11-2005. In Writ Petition No. 6039 of 2011 which was filed by Prof K. P. Sharma prayer had been made to quash approvals and clearances contained in the orders dated 16-9-2009 and 22-9-2009 and to direct Respondent 7, appellant herein M/s Jal Mahal Resorts (P) Ltd. to restore the original position of 100 ac of land by removing the soil filled in by it at its own costs.

7. The appellant M/s Jal Mahal Resorts (P) Ltd. has assailed the judgment and order of the High Court on several grounds to be related hereinafter. But before doing so it has related the factual and historical background of the matter giving rise to these appeals. In this context, it has been stated that Mansagar Lake was a manmade lake on the northern fringe of Jaipur City. Within the Lake a pleasure pavilion called Jal Mahal was constructed by the erstwhile rulers of Jaipur in the 18th century and this structure is still existing in the midst of the Lake. Tracing out the historical background, it has been stated that in 1962, the two main sewerage drains of the walled city of Jaipur, Nagtalai and Brahmapuri were diverted to empty into the water body which led to its degeneration, siltation and settled deposits and contaminations to such an extent that it could not support aquatic life nor support flora and fauna in the surrounding areas. The water body was covered with floating hyacinth and its aquatic life and there were large - scale death of fish that had earlier survived and led to a drastic reduction in the fauna including the migratory birds that used to flock in the vicinity of the Lake was on the verge of extinction. About 40% of the catchment area which covered approximately 23.5 sq km was dense urban population. Towards the south side of the Lake, large amounts of unintended developments and encroachments had taken place thereby drastically increasing the quantity of effluents discharged into

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the Lake and also put other pressures by unconditional grazing of cattle and urban development. Jal Mahal had also very substantially deteriorated over a period of time not only because of natural process of degeneration but also because of lack of maintenance. The monument was in a dilapidated state and required massive restoration works.

8. The deteriorating condition of the Lake and the monument compelled the Government to find ways and means to restore the two components to their original glory. Over a period of 30 years attempts were made by various Government agencies and departments to restore the ecological and environmental condition of the Lake and its adjoining area. However, none of these attempts yielded very positive results because of paucity of resources to take up and sustain the restoration.

9. The Government of Rajasthan, therefore, decided to adopt an incentivised approach to restore the Lake and the monument and develop the precinct area on a public - private partnership format. To improve the condition of the Lake, the State of Rajasthan, in consultation with experts and after detailed surveys and analysis, developed a holistic approach involving three components, namely:

- (i) restoration of Mansagar Lake,
- (ii) restoration of Jal Mahal, and
- (iii) development of tourism / recreational components at the Lake precincts.

Thus, the third component visualised development of the precincts area of the Lake which comprised of about 100 ac of land towards the south on a sustainable development model. It was, therefore, required that the Lake and Jal Mahal be restored and the Lake precinct be developed for limited eco - friendly tourism facilities which would also provide funds for operation and maintenance of the Lake on a continuous basis. The benefits of this project was that it would result in the restoration of Mansagar Lake and the Jal Mahal monument and there would be consequent development of eco - friendly tourism destinations with large open green spaces in the vicinity of the Lake which would improve the environment and resultantly, the aesthetics and visual quality of the area.

10. The Government, therefore, adopted the approach of public - private partnership to the restoration and development of the precincts in an environmentally conscious way. For this purpose, project conceptualisation was chalked out and the project structure was conceptualised after detailed studies

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over a number of years. In the year 1999 a detailed feasibility report (DFR) was prepared. DFR covered architectural conservation and reuse of Jal Mahal; ecological restoration of the Lake along with development of surrounding areas for integrated tourism development and recreational facilities. Approval to DFR was accorded by Jaipur Municipal Corporation in November 2000.

11. As a consequence of the aforesaid conceptualisation, process for bidding started which has been described as "First Bid Process" by the appellant which started after publication of the advertisement. Request for qualification (RFQ) was released in December 2000. Six firms responded and made submissions for qualification. In the meantime, request for proposal (RFP) document was prepared by Project Development Project Development Ltd. (PDCOR) which is a joint venture company of the Government of Rajasthan and IL & FS and approvals were given by the Government of Rajasthan. Request for proposal was released and Board of Infrastructure Development and Investment (BIDI), a High - Powered Committee of the Government headed by the Chief Minister with an objective to accelerate private investment in industry and related infrastructure, formed a subcommittee to decide on fiscal concessions necessary for the project. Jaipur Municipal Corporation was made the nodal agency for project purposes. However, the First Bid Process failed as despite applying for qualification no bidder ultimately participated in the bid.

12. The aforesaid failure led to the appraisal and approval of the project report by the Ministry of Environment and Forests. The Government of Rajasthan, through the Department of Urban Development, sent proposals to the Ministry of Environment and Forest (MoEF), Government of India, on 17-8-2001 seeking funds for Lake restoration of the said project under National Lake Conservation Programme (NLCP). MoEF responded by requesting that details regarding fund requirement, operation and maintenance agency, source of funding for operation and maintenance along with detailed project report (DPR) comprising of bankable proposal be submitted. Hence, on 8-12-2001 and 9-12-2001 and thereafter on 26-1-2002 and 27-1-2002, the project site was studied by the representatives of MoEF.

13. On 22-1-2002, a letter was written by MoEF wanting break - up of estimated costs as also commitment of the State Government to bear 30% of the cost sharing as well as identifying agency for carrying out operation and maintenance.

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The State Government was also to ensure that no untreated sewage should be discharged into Mansagar Lake which could be achieved inter alia by diverting the two nallahs that discharged waste in the Lake.

14. Based on experts' recommendation after complete technical surveys and environmental studies of the Lake, the area for the project was identified and recommended by renowned consultants LASA (Lea Associates South Asia (P) Ltd.) as being ecologically viable. DPR itself mentioned that the ecological restoration of the Lake would be carried out on the basis of which it can be sustainable and bankable as required by MoEF through a public - private partnership model.

15. On the basis of commitment of the State Government to meet 30% expenditure on restoration of Mansagar Lake, MoEF, Government of India, approved DPR in October 2001 under NLCP with 70% amount as grant - in - aid. MoEF also conveyed its appreciation on DPR and observed as follows:

"The project document and structure as developed by PDCOR Ltd. has served as a benchmark for developing sustainable Lake restoration projects on a public - private partnership (PPP) model. You will be pleased to know that we are recommending a similar approach to other States for Lake conservation projects.
"

16. This gave rise to the new bidding process which may be termed as "Second Bid Process" for which decision was taken in its ninth meeting held on 10-1-2002, approved further fiscal concessions necessary for the project and approved a fresh round of bidding. The nodal agency for the project was changed to Jaipur Development Authority (JDA) from earlier agency, Jaipur Municipal Corporation. The bid documents were duly approved and an advertisement inviting expression of interest (Eoi) was issued for selection of private sector developer (PSD) in April 2003 after the key commercial terms of the project and even the draft of the advertisement was approved by JDA. The Empowered Committee of Infrastructure Development (ECID), a High - Powered Committee headed by Chief Secretary, formerly known as SCID, directed Secretary, UDH to finalise key commercial terms for selection of PSD. During the first round of bidding the proposed lease was 60 years in the aggregate. As that period was considered unviable, in the second round of bidding the period of lease was proposed as 99 years. Moreover, restoration of Jal Mahal by PSD was made optional and not

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mandatory.

17. In pursuance to the aforesaid steps, detailed RFP was issued to interested private parties which was approved by JDA and released in July 2003. The advertisement inviting RFP for selection of private sector developers (PSD) was published in leading newspapers (Rajasthan Patrika and The Economic Times). In addition, PDCOR developed strategy for marketing and wide publicity of the project by apprising potential entrepreneurs across the globe about the features of the project with a view to encourage them to come forward to participate in the bid process. As the tourism project was to generate funds for sustained operation and maintenance measures, the Department of Tourism (DoT) and later Rajasthan Tourism Development Corporation (RTDC) was made the nodal agency for the project. Four competitive bids including from the petitioner were received which were evaluated and Pdcor submitted its report to the Government of Rajasthan for its approval. The Technical Evaluation Committee constituted for evaluation of bids comprised of eminent experts like Padmashree Dr B. V. Doshi, Architect, Mr Mohd. Shaheer, Landscape Architect and Mr Hemant Murdia, Chief Town Planner, Government of Rajasthan.

18. The appellant - petitioner got the highest marks in technical evaluation of its bid and when financial bids were opened the petitioner's bid was found to be the highest. Consequently, ECID in its meeting held on 9-2-2004 headed under the Chairmanship of Chief Secretary decided to grant the project to the petitioner. The letter of intent was issued to the petitioner on 30-9-2004. On 22-11-2005 after approval from the Government of Rajasthan the lease in respect of the project land and the licence for restoration and reuse of Jal Mahal were executed.

19. In terms of the project an area of 100 ac of land towards the south of Mansagar Lake was to be leased out for a period of 99 years for development of eco - friendly tourism components as set out in RFP. The entire development, at the end of 99 years, was to be transferred back to the State Government without any compensation payable to the private sector developer. In terms of RFP, it was optional for the private sector developer to undertake the restoration and reuse of the Jal Mahal monument. The petitioner while making the bid also exercised the option for restoration and reuse of the Jal Mahal monument. The petitioner in terms of the licence agreement set out to restore the monument. RFP estimated the cost of restoration of Jal Mahal at approximately Rs 1. 50

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crores. In reality the cost of restoration of Jal Mahal worked out to Rs 10 crores. The State Government had also constituted an Empowered Committee to oversee the time - bound restoration of Mansagar Lake and Jal Mahal monument.

20. The appellant - petitioners in pursuance to the lease appointed consultants who did extensive research plan which was got approved from the Empowered Committee. Ultimately the monument was fully restored under the supervision of the Empowered Committee upon advice of renowned conservation architect Dr Kulbhusan Jain and other consultants.

21. The appellant - petitioner, who had been given the lease of 100 ac of land on the southern shore of Mansagar Lake, after obtaining all necessary approvals, had completed Phase 1 of the project. But the project suffered a grave setback and knee - jerk obstruction as by this time i. e. in the year 2010 public interest petitions were filed in the High Court although the petitioner had already started executing the project and had already spent an amount of Rs 38 crores besides paying more than Rs 14 crores as project development fees and lease rent to RTDC as per the appellant - petitioner's case in terms of the lease deed. In pursuance to the same, the restoration of Mansagar Lake under DPR prepared by PDCOR was to be undertaken by the State Government. The operation and maintenance work was to be carried out from lease rentals received from private sector developer i. e. the petitioner. The total amount sanctioned for restoration of the Lake by the Central Government and the State Government was Rs. 24. 72 crores. This amount proved to be inadequate and the Government due to further resource crunch was not in a position to spend any further amount. Resultantly, the restoration of the Lake, which was the cornerstone of the project, was in danger. The petitioner spent over Rs. 15 crores on restoration of the Lake with the approval of the Empowered Committee.

22. As a measure of restoration and development of the project, the entire project implementation had to be done so as to achieve sustainable eco preservation and development. The petitioner, therefore, acted under the advice and on the recommendation of experts. These activities were further monitored by the Government of Rajasthan and its agencies. The appellant - petitioner stated that for the purpose of restoration, the petitioner engaged a number of nationally and internationally renowned consultants including Mr Soli J. Arceivala, Ex - Director of NEERI, Dr Shyam R. Asolekar from IIT Mumbai, Dr G. C. Mishra



from IIT Roorkee, Mr Jal R. Kapadia, Environment Consultant, Mumbai and Mr Herald Craft, renowned lake conservation expert from Germany. Some of these experts had also worked for restoration of Hussain Sagar Lake in Hyderabad. The State Government had also constituted an Empowered Committee to oversee the time - bound restoration of the Lake. The work involved realignment of Nagtalai and Brahmapuri drains so that domestic sewage and waste including run - off and detritus during the monsoons no longer emptied into the cleansed waters as also desilting of the water body which were essential components of DPR as approved by MoEF under NLCP. In order to ensure that the on - going discharge of drainage did not once again pollute the water, Mr Herald Craft, the German lake conservation expert prepared a report which suggested preparing temporary sedimentation / settling tanks near the mouth / discharge point of the realigned drains. The purpose of constructing sedimentation tank was to trap the silt and organic content of the storm water so that the quality of water in the whole of water body is not adversely affected. The sedimentation process were also reviewed by a team of experts from MoEF which found the system as a viable and proper solution.

23. It has been further brought to the notice of this Court that the project fell within Item 8(a) of the Environmental Notification dated 14-9-2006 and was also confirmed by MoEF in its affidavit - in - reply filed to the writ petition and a detailed environmental impact assessment (EIA) was carried out by State - Level Environment Impact Assessment Authority (SEIAA) constituted by MoEF. It is, therefore, stated that all requisite environmental approvals were obtained.

24. The project thereafter was started and the land leased to the petitioner, according to the appellant, was not a part of the water body in the first Master Plan 1971-1991 for Jaipur and an area of 200 ac around the south side of Jal Mahal was demarcated and reserved for tourist facilities. The land leased to the petitioner was a part of this land area reserved for tourist facilities. The said land continued to be retained for tourism and recreational activities in the subsequent city master plans including the Master Plans of 2011 and 2025.

25. The appellant has further stated that Mansagar Lake on its western side is bound by Jaipur - Amer Road. The level of the road is at a contour level of 100 MRL. The ground floor of the Jal Mahal monument within the Lake is at the contour level of 98. 2 MRL. PDCOR, based on intensive studies, found this level



as the most appropriate level taking into account the fact that the Lake was not freshened by natural aquifers but was dependent on surface run - off during the monsoons, and to ensure that ground floor of Jal Mahal was not submerged.

26. However, the contesting respondents herein who were the PIL petitioners before the High Court, averred that the PIL petitioner Prof K. P. Sharma is involved in the research with regard to Mansagar Lake and has published a paper which was read out in the 12th World Lake Forests TAAL 2007. It was submitted by learned counsel Mr Aruneshwar Gupta on behalf of the PIL petitioner, one of the three contesting respondents herein that Mansagar Lake and the management thereunder were declared protected monuments but were deleted from the list of protected monuments in the year 1971. The contesting respondents have also related the history of the Lake's glory and have recorded that Mansagar Lake is a large lake on the northern fringe of Jaipur City and the glory of the Lake as a pristine water body lasted until the former rulers had their control over the city and unpleasant history of the Lake began when the new administration of Jaipur diverted walled city sewage in 1962 through two main waste water drains, namely, Brahmapuri and Nagtalai. The most notorious aquatic weed water hyacinth (*eichhornia crassipes*) entered into the Lake in 1975. The petitioner, the contesting respondent herein stated that during the studies made by the contesting respondent and his colleagues, 10 zooplankton species, arthropods, fishes and 92 species of birds were observed at Mansagar Lake and out of 92, 41 are aquatic and 51 were forest dwellers. The water fowl population included 16 resident and 25 migratory species. It is in this context that it was submitted that Mansagar Lake and the monument therein were declared protected monuments but they were deleted from the list of protected monuments in the year 1971.

27. It was further averred by the PIL petitioner, the contesting respondent herein in the High Court that the Ministry of Environment and Forests (for short "MoEF"), Government of India prepared the National Lake Conservation Plan (for short "NLCP") for restoration, conservation and maintenance of urban lakes. The Government of Rajasthan submitted the project for restoration of Mansagar Lake to the Central Government. The total cost of the project was estimated to be Rs. 24. 72 crores, out of which 70% was to be provided by the Government of India while rest was to be borne by the State Government. The administrative approval and expenditure was granted by MoEF vide order dated 5-9-2002 and the order



was revised by MoEF vide order dated 23-12-2002. JDA implemented the Lake restoration plan under which sewage treatment plant (STP) near Brahmapuri has been revamped from which treated water is being diverted to the Lake for compensating evaporation losses during dry weather. A two - step tertiary treatment plant has also been developed and the Lake has been cleared from hyacinth plants completely by JDA. JDA has also invested in development of Lake front promenade on Jaipur - Amer Road and constructed a road along the Lake on the northern side which has formed a new water body of about 5 ha in size for storing hill run - off during rainy season for wild life which includes Hanuman langur (*semnopithecus entellus*), black aped hare (*lepus nigricollos*), Indian porcupines (*hystrix indica*), blue bull (*boselalphus tragocamelus*), sambhara (*cervus unicolor*), common mongoose (*herpestes edwardsii*), jackals (*canis aureus*), striped hyaena (*hyaena hyciena*) and panther (*panthera leo*), JDA has also funded Rs. 10 million to the State Forest Department for improving Lake catchment area falling in Nahargarh Hill area (Aravalli Range) which is the only natural watershed. The Lake is surrounded almost from three sides by Aravalli Hill Range. The hills are either part of Nahargarh Wildlife Sanctuary or Reserved Forest Ranges known as Amer Block 54 and Amargarh Block 92. The petitioner, the respondent herein and his team was working in executing a JDA - sponsored project on bank stabilisation of the Lake since May 2005. 35 species of trees and 28 varieties of shrubs were planted. Besides improving landscape, the plant species provide shelter and food to the local fauna and migratory birds may also be benefited. Similar plantation was also done on three islands.

28. The PIL petitioner, the respondent herein had further averred that Jal Mahal Tourism Infrastructure Project was conceived and approval was given by the Standing Committee on Infrastructure Development (for short "SCID") in its third meeting held on 21-12-1999. Resolution has also been filed in which it was stated that Jaipur Municipal Corporation must own the project. The bids were invited in the year 2000-2001 without identification of the land to be used and without studies with regard to environment impact assessment. The bid process was scrapped and JDA was made sponsoring department for the Lake side development component in the meeting of Board of Infrastructure Development and Investment Promotion (for short "BIDI") held on 23-8-2002 and 3-9-2002.

29. It was contended on behalf of the petitioner that MoEF granted administrative approval and expenditure sanctioned only for the Lake restoration components

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and there was absolutely no consideration by MoEF to the Lake side development component of the so - called Jal Mahal Tourism Project. It was submitted that as a matter of fact the National Lake Conservation Plan did not contemplate any such commercial venture upon the lakes to be restored under the plan which according to PDCOR contemplated the following three components as already referred to hereinbefore but for facility of reference it may be reiterated that the three components were as follows:

- (i) Restoration of Mansagar Lake;
- (ii) Restoration and reuse of Jal Mahal monument;
- (iii) Development of tourism / recreational components at the Lake precincts.

30. It was further submitted by the petitioner, the contesting respondent herein that in the meeting of BIDI held on 5-8-2003, it was decided that nodal agency for the Jal Mahal Tourism Project will be the Tourism Department of the Government of Rajasthan instead of JDA. Thereafter, the Tourism Department assigned the responsibility to Rajasthan Tourism Development Corporation (for short "RTDC") vide order dated 6-9-2003. It has been submitted that although bidding was started, no survey of the actual site and demarcation of 100 ac area on the Lake was made and even environment impact assessment was not carried out before planning the project. It was further submitted that in the advertisement last date for submission of the bid was 5-9-2003 and it was necessary under the terms of the bid that only private limited company or public limited company could have submitted tender. It was necessary that lead manager should be private or public limited company. The offer was submitted by KGK Enterprises, partnership firm and its HUF Manager. Thus, it was not fulfilling eligibility qualification provided under the terms notifying tender.

31. However, the petitioner, the contesting respondent himself has added and clarified that later on decision was taken to include KGK Enterprises which according to the petitioner, the contesting respondent lack eligibility condition and Jal Mahal Resorts (P) Ltd. Co. has been incorporated on 10-11-2004. The decision was also taken to give exemption of stamp duty, etc.

32. The contesting Respondent 7 who was the PIL petitioner has further stated that during the bidding it was made clear that no commercial activity would be permitted within the precincts of Jal Mahal complex, but even before agreements were executed, the successful bidder not only sought exemption from commercial

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activity within the precincts of Jal Mahal complex but also sought revision of the project proposal and for maintenance of the Lake water level at the cost of the Government vide Letter dated 13-7-2004. The contesting respondent, the PIL petitioner had also submitted that out of 100 ac of land, 14. 15 ac of land was submerged in water which has also been leased out.

33. Mr Aruneshwar Gupta on behalf of the PIL petitioner, contesting Respondent 7 further averred that Master Plan of Jaipur, 2011 did not permit such activities at the site. It was also stated that 100 ac of land was part of the lake bed itself, out of which 14. 15 ac of land was submerged in the water. The area was sensitive for ecosystem and thus environment impact assessment was required to be carried out before any such project was prepared but the same was not done. It was still further stated that 100 ac of land beyond the spread of lake bed was not available on the site and it was further submitted that wall of sufficient height has been constructed for setting apart the proposed 100 ac of land from the lake bed and the soil from the lake bed itself was actually used for this purpose. It was alleged by the PIL petitioner that the appellant herein Jal Mahal Resorts (P) Ltd. started constructing high walls of mud and soil in the eastern part of the lake bed near sluice gates and a large area around it for the purpose of preparing sedimentation tanks in the lake bed itself. The project people visit land most frequently disturbing birds on the island and the connection of island with mainland has also led to entry of dogs on the island which feed on the eggs of birds and thus, basic objective of island to provide habitat / breeding ground for resident and migratory birds is forfeited.

34. It was further contended by the petitioner before the High Court that one third of the Lake was converted into a series of sedimentation tanks made in the downstream of the Lake by Respondent 7 and now all dirt with floating objects enter into sedimentation tanks made in the lake bed. Thus, the entire Lake has been converted into a series of small tanks followed by a large tank i. e. lake. This has adversely affected aesthetic value of Mansagar Lake. Prior to the construction of storm water management plan, lake water also used to be released for irrigation. Now water will be released through sluice gates into downstream directly without flowing through the lake basin and there will be no flushing out of salts from the Lake. The build of salts will convert fresh water lake into a saline lake which will alter its flora and fauna. It was further submitted before the High Court that the appellant herein was not at all concerned with the



construction of storm water management plant, that too in the lake bed itself and it has been carried out without any requisite sanction and study by any of the authority concerned, otherwise such a large area of the Lake could not have been allowed to be sacrificed for such purpose. As per the monitoring done by the PIL petitioner, the contesting respondent, the chloride content in Mansagar Lake has been increased and salt in water has gone high. The sudden increase in the chloride content of the Lake is attributed to direct human interference by way of altering lake basin character. This increase in salinity will definitely affect the Lake's biodiversity and both the native and migratory birds and species diversity will significantly be dropped. The PIL petitioner further submitted that the unique feature of the area is an endemic species, namely, Plum Headed Parakeet found in the protected forest in Aravalli and the project would be dangerous to the species. Due to settling / sedimentation tanks in the lake bed itself, silt / filth which was to be avoided after restoration of the Lake, is wilfully invited and drained into the Lake itself which has increased salinity of the water also.

35. The PIL petitioner had further submitted before the High Court that the revision had destroyed the very substratum of the project which was earlier conceived. The whole project after completion was to be put in use by 2010, but the appellant has not done anything except filling and compacting the 100 ac of land in the lake bed itself by excavating the soil from the lake basin. Though only 13% of the land was to be used for construction activities of the private sector developer and would be of restricted entry and rest 87% was to remain in the form of open space, parks, gardens and unrestricted public entry spaces, but in the name of commercial viability and loosely drafted clauses of the bid documents and contracts, complete revision of the plan has been sought by the appellant after declaration as successful bidder. It was further submitted that the Committee under the Chairmanship of the Chief Secretary of the Government of Rajasthan considered the revised Master Plan and rejected the changes on 10-10-2007, However, another representation was submitted by the appellant herein, Respondent 7 in the High Court and on 10-9-2009 sanction was granted by the Committee.

36. The PIL petitioner also raised a grievance that environment impact assessment was not carried out by the finalisation of the project or execution of the lease agreement and even environment clearance from MoEF, Central Government was not obtained as required under the E1A Notification dated

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27-1-1994. The Central Government had issued a fresh Notification on 14-9-2006 in exercise of power conferred under S.3 of the Environment (Protection) Act, 1986 (shortly referred to as "the 1986 Act") and the Rules framed thereunder for environment clearance before implementation of the projects mentioned therein. It was further contended that the project cannot be implemented without obtaining environment clearance from the Central Government under the aforesaid notification and no environment impact assessment was carried out nor any environmental clearance has been obtained before finalising the Project and all actions taken by the respondent are absolutely illegal and void. The PIL petitioner further contended that the environment clearance as required under the Notification dated 14-9-2006 had not been obtained nor any compliance with the Wetlands (Conservation and Management) Rules, 2010 had been made so far.

37. The PIL petitioner had raised a grievance that it is a case of siphoning off of valuable public property as the value of 100 ac of land is not less than Rs 3500 crores. The DLC rates for commercial land in question is Rs 79, 063 per sq m and lease for 99 years amounts to sale, although as per the Rules it was necessary for the respondent authorities to realise the sale price and additionally the lessee was required to pay annual lease money also. The market price used to be much higher than DLC rates, especially due to location being picturesque and ecologically rich. If such land is sold for commercial purposes for constructing five star hotels, resorts, luxury villas, etc. such land carries invaluable importance. According to the PIL petitioner, the contesting respondent herein the value of such land cannot be said to be less than Rs 3500 crores. It was, therefore, submitted that the State Government had handed over valuable natural resources of water surrounded by natural beauty of hills and forests, full of wildlife and other natural resources maintaining environmental and ecological balance of the city to a private entrepreneur society for economic exploitation at the cost of the public. The revision of the Master Plan completely converts the tourism project into privately owned township upon 100 ac of land which has been let out for a petty sum by the Government.

38. Insofar as Writ Petition No. 5039 of 2010 Dharohar Bachao Samiti v. State of Rajasthan, and Writ Petition No. 4860 of 2010 Heritage Preservation Society Rajasthan v. State of Rajasthan, are concerned, they have also substantially urged the sacrifice of public interest on account of the lease granted in favour of the appellant and as such to establish sacrifice of public interest as per their

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perspective which have been related in the impugned judgment and order.

39. Contesting the PIL petition before the High Court, the respondent State of Rajasthan and its functionaries / authorities had submitted that the Master Development Plan 1976 to 1991 of Jaipur City contained provisions of various facilities on south and west side of Jal Mahal Lake on 200 ac. It was submitted that the erstwhile Urban Improvement Trust, Jaipur had proposed a scheme in respect of 520 ac land which was published in the gazette on 31-7-1975. The Jaipur Development Authority Act, 1982 (for short "the JDA Act, 1982") came into force and the Urban Improvement Trust was replaced by JDA. A notification under S.39 of the JDA Act was issued by JDA on 30-6-1987. However, development of Jal Mahal area could not materialise. JDA then decided to undertake the exercise for development of integrated tourism infrastructure development for Jal Mahal and required Project Development Company of Rajasthan (PDCOR) to prepare project on commercial format for private - public participation. The preliminary approval was given by the Standing Committee on Infrastructure Development (for short "SCID") in December 1999. It was stated that the bids were notified in the year 2000 but no entrepreneur came forward in the bidding process and thus the tender process was scrapped. Thereafter, JDA was appointed as nodal agency to undertake the bidding process. Global tenders were invited on 25-4-2003 and in pursuance thereof nine entrepreneurs showed interest. It was mentioned in the advertisement that 100 ac of land would be leased out for 99 years. A pre - bid meeting was held on 24-8-2003 for removal of doubts. The Department of Tourism on 6-9-2003 transferred the development of Jal Mahal to RTDC vide Letter No. RI / 12. On 15-9-2003, pre - qualification bids were opened in response to which four entrepreneurs submitted bids. Rejection of one bid was recommended on account of inadequate information on evaluation. It was pointed out that the respondent M/s KGK Enterprises was a partnership concern whereas the criteria for bidder was that it has to be private / public limited company and thus final view of the Government was sought in respect of qualification / disqualification of M/s KGK Enterprises in the next phase of evaluation bid. Later, on 14-11-2004, KGK Enterprises formed private limited company in the name and style of "Jal Mahal Resorts (P) Ltd. " PDCOR suggested retention of KGK Enterprises as its presence will increase competitiveness. The State Government permitted the consideration of bid of KGK Enterprises on 17-10-2003 to enlarge the scope of competitiveness. Thereafter, the technical bid was opened on 21-10-2003 and financial bid was

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opened on 3-12-2003. RTDC recommended the award of project to the highest bidder, namely, KGK Enterprises and accordingly the Commissioner, Tourism vide noting dated 19-2-2004 put the matter before the State Government for issuing a letter of intent and signing the lease agreement in favour of the successful bidder. This was forwarded by Secretary, Tourism to Minister In - charge, Tourism (Chief Minister), who approved the minutes of the Empowered Committee on Infrastructure Development (ECID) and directed to put up the draft lease agreement early. On 9-5-2005 the Collector intimated that 100 ac of land has been mutated in favour of RTDC. The approval of lease agreement and licence agreement and authorising of Managing Director of RTDC to sign the agreement was granted finally by the Chief Minister on 27-10-2005. On 29-10-2005, RTDC authorised the Managing Director to sign Jal Mahal Lease Agreement on behalf of the Government of Rajasthan with Jal Mahal Resorts (P) Ltd. and accordingly lease agreement was executed on 22-11-2005. The Central Government, MoEF recorded its appreciation for the project vide letters dated 13-9-2002 and 1-12-2009.

40. It was further contended on behalf of respondent State that it is incorrect to say that the size of the Lake has been reduced on account of leasing out 100 ac of land. It was averred that the action is as per the Master Development Plan. The State Government has submitted the Project to the Central Government MoEF for restoration of Mansagar Lake at the estimated cost of Rs. 24. 72 crores and the Central Government agreed to provide 70% of the cost. PDCOR in the project report prepared in October 2001 included the following facilities:

1. Restaurant;
2. Traditional technological park;
3. Club resort;
4. Amusement park;
5. Heritage village;
6. Light and sound show land;
7. Recreational centre.

41. It was further stated by the respondent State of Rajasthan before the High Court that there will be no damage to the wildlife or reserve forest or birds and it is for Respondent 7 Jal Mahal Resorts (P) Ltd., the appellant herein to obtain clearance as per requirement of law. The sedimentation tank covers 5% of the area of the Lake. It was also stated that the Wetland Rules are not applicable and

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they are made applicable to Sambhar Lake and Keola Deo Lake in Rajasthan. It was still further added that the land leased out does not fall within the definition of S.2(l)(g) and S.3. The consent had been given under the Water Act by the Rajasthan Pollution Control Board on 20-5-2010. It was further added that for the last three decades, the State Government had been making efforts for restoration of Jal Mahal, Mansagar Lake and the area around the Lake and desilting has not caused any ecological damage.

42. Insofar as the stand of Jaipur Development Authority is concerned, it on its turn submitted that for development of Jal Mahal Tourism Project land of private unit was acquired, certain land was sawai chak (Government land) and land of the Public Works Department, land of three villages, namely, Vijay Mahal, Bansbadanpura and Kasba Amer was included, 178 bighas 9 biswas was in private tenancy, 475 bighas 9 biswas was sawai chak (Government land), 25 bighas 4 biswas was of PWD, 133 bighas 15 biswas was of Municipal Council, 19 bighas 10 biswas was of the Forest Department. Thus, in total, 832 bighas 1 biswa was mentioned in the Letter dated 7-6-1982 written by UIT to the Deputy Secretary, UDH. When JDA was formed, the area of Jal Mahal Project stood transferred to JDA by virtue of the JDA Act and JDA vide Letter dated 5-10-1983 requested the Government to acquire land admeasuring 832 bighas 4 biswas which was in the tenancy of private persons. JDA sent a proposal on 25-2-1988 to UDH for publication under S.4 of the Land Acquisition Act, the report under S.5 - A was submitted by the Land Acquisition Officer to the Government for acquisition of land for Jal Mahal Reclamation Project and the same was accepted and land award was passed on 17-4-1996. It was further explained that a part of land however falling in the area known as Karbala measuring 46 bighas was decided not to be acquired. On 31-3-1999 BIDI was formed to take decisions to accelerate growth of investment and industrial development in the State of Rajasthan. Thereafter, the decisions were taken, details of which have been given in the return. On 10-9-2009, approval of revised layout plan was granted by the Committee chaired by the Chief Secretary. Lease amount had to be enhanced by 10% every time after a period of 3 years. It was, therefore, submitted that JDA having considering the nature of investment, lease of 99 years was justified. It was also admitted that out of 100 ac of leased area 13 bighas 17 biswas of land is recorded as "gair mumkin talab" in Khasra No. 67/317.

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43. Insofar as the reply of the lessee, Respondents 7 and 8, the appellants herein Jal Mahal Resorts (P) Ltd. and KGK Consortium is concerned, it had submitted in their reply to the writ petition before the High Court that the State Government promoted the concept of private - public partnership to save the burden on the exchequer and the decision had been taken by the expert body at the highest level which is not amenable to interference by this Court. MoEF granted approval on 5-9-2002. On 23-12-2002 administrative approval and expenditure sanction was issued by the Government of India for conservation and management of Mansagar Lake. The bid submitted by M/s KGK Enterprises in 2003 was found to be the highest and hence the then Chief Minister had approved the decision of giving project to the highest bidder KGK Enterprises on 27-2-2004 and thereafter letter of intent was issued on 30-9-2004 after which lease agreement was executed on 22-11-2005 on which the appellant has already spent an amount of Rs. 70 crores while executing Part I of the project.

44. The appellant herein had also submitted that the public interest petition was not bona fide, it rather amounted to abuse of the process of the Court and they have been filed with gross delay and laches.

45. Responding to Writ Petition No. 4860 of 2010, which PIL was filed by Dr. Ved Prakash Sharma in the High Court also, was contested by the appellant herein and it was submitted that Dr V. P. Sharma appears to have obtained registration on 19-3-2010 mainly for the purpose of approaching mis Court in PIL. It was also urged that Prof K. P. Sharma in WP No. 6039 of 2011 is not a recognised authority or lake functionaries or expert in lake management, irrigation, environment protection and there has been orchestrated campaign through vernacular newspaper for reasons best known to the correspondent and the newspaper itself. The said newspaper runs Janmangal Trust on behalf of the Irrigation Department and the said Trust also carries out commercial activities to generate revenue for upkeep of the dam. It was further added that in 1992 the newspaper group wanted to utilise the Jal Mahal complex and the land which is part of the Jal Mahal Tourism Project for its own benefit and commercial use free of cost / at a paltry sum and having failed to grab the land, hostile campaign had been started against the project and more than 200 misleading articles had been published in the newspaper attempting to hold a media trial in the matter. The appellant herein further stated that the PIL petitioner Prof K. P. Sharma, Respondent 6 in the appeal has not come up with clean hands and concealed the

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material facts that on the complaint filed by him before PIL cell of the Supreme Court, no cognizance was taken and the file was closed. The writ petitions which were filed were barred by res judicata inasmuch as Writ Petition No. 1008 of 2011 Ram Prasad Sharma v. State of Rajasthan, was dismissed by the High Court as withdrawn by order dated 15-2-2011 without liberty to file a fresh writ petition.

46. It was also submitted by the appellant that the interference in contractual matter is not permissible specially when Jal Mahal Tourism Project is in larger public interest as it has to undertake restoration of Mansagar Lake. It was still further added that there was encroachment of about 50-60 ac of land, decision had been taken by the expert body, bids were invited by global tender and the appellant having been found the highest bidder was rightly considered, lease agreement and leave and licence agreement are valid, possession of the land was rightly handed over to them; nursery has been set up over this land which has numerous varieties of plants and they have also introduced several varieties of aquatic vegetation in Mansagar Lake to attract migratory birds. Beautification of Jaipur - Amer Road divider has also been taken up and work of Phase I has been completed and allegation of environment damage is baseless as the State Government after environment impact assessment granted permission and consent has also been granted by the Rajasthan Pollution Control Board in 2009-2010; capacity of water in the Lake has not been reduced; sedimentation basin has been constructed as per expert advice. The appellant further had stated that they had spent about Rs. 15 crores on Lake restoration which was not their responsibility under the lease agreement and they have also spent Rs. 10 crores on restoration of Jal Mahal monument voluntarily though obligation was limited to Rs 1. 5 crores only. Hence, there cannot be any interference by this Court with the opinion of the expert.

47. It was still further added that Jal Mahal monument is not a place of worship for both Hindu or Muslim or either of them and there is no document showing that it has been permitted to be used as a place of worship. It was stated that Jal Mahal monument was a pleasure pavilion used for hunting ducks and other similar pleasure activities by the kings, opinion of legal consultant of JDA was not correct. Issue of identity of director / owner of the company constituting the consortium is not relevant in any manner whatsoever to the project for restoration of Mansagar Lake. For Jal Mahal monument and development of precinct area,

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bid was submitted by KGK Consortium comprising of six private limited companies, one HUF and partnership firm, namely, M/s KGK Enterprises who was lead bidder of KGK Consortium. It was stated that it is mandatory under the tender document that in case of consortium bid, successful bidder has to form special purpose vehicle (limited company) and lease would be executed with such SPV; in the pre - qualification round the bidder should have satisfied any two of the three eligibility criteria for meeting the financial capability:

1. Tangible net worth of not less than Rs 100 million (US \$2 million) as per the latest audited financial statement.
2. Annual turnover not less than Rs. 300 million (US \$6 million) as per the latest audited financial statement.
3. Net cash accruals not less than Rs. 50 million (US \$1 million) as per the latest audited financial statement.

Relying on these credentials, it was stated that M/s KGK Consortium satisfied the aforesaid technical financial criteria. However, its lead member M/s KGK Enterprises was a partnership firm and as KGK Enterprises met all the requirements in respect of technical, financial, shareholding and lock - in periods as given in RPF, deviation from RPF which mandated that the lead firm must be a public / private company was permitted and KGK Enterprises was allowed to compete so as to ensure adequate competition. Factual details are further added stating that KGK Enterprises acquired 83 marks while the next highest 82 marks were secured by M/s J. M. Projects (P) Ltd. and both were considered eligible for opening of then financial bids, bid of KGK Enterprises being the highest, was accepted. Under the lease agreement, Jal Mahal Resorts (P) Ltd. has a right of development of 100 ac of project land and no proprietary right over the management has been given. Licence for the restoration of the Jal Mahal monument does not confer any right on Jal Mahal Resorts (P) Ltd. except to ferry passengers for a minor charge and it has not been authorised to use the Jal Mahal monument commercially and the monument remains within the possession and use of the State Government. Out of 100 ac of land, 87% area is to be maintained as green area and in PIL, terms and conditions of the contract cannot be questioned after several years.

48. The appellant further stated that on restoration of Mansagar Lake Rs. 15 crores have already been invested, catchment area is not being disturbed in any manner, report of Prof K. P. Sharma is merely an opinion based on personal interpretation. There was temporary road constructed by the licensee for easy



access for the purpose of restoration of Jal Mahal monument which is situated otherwise in Mansagar Lake surrounded by water and the said road has been dismantled and no material is left to compromise the filling capacity of the Lake. JDA has approved detailed building plans for the project on 13-7-2010. Jal Mahal Resorts (P) Ltd. diverted the sewage nallahs away from Mansagar Lake with the approval of the State Government, the Lake has been cleansed substantially, BOD of the water in Mansagar Lake has been reduced substantially after commencement of the work, creation of sedimentation basin has not decreased the water capacity of Mansagar Lake and use of the soil of the Lake itself has not damaged the ecology or environment or the Lake. Sedimentation basin is a part of the Lake and created only by moving the soil of the Lake from one place to another and it is wholly temporarily reversible in nature and the soil can be levelled when arrangements are in place to ensure that the storm water drains do not discharge silt and organic load into the Lake during monsoon. The land in question is not covered under the provisions of the Tenancy Act and the Lake is with the State Government, which will continue to remain so. It has, however, been added that the responsibility of lake maintenance is purely of JDA and Jal Mahal monument has been denotified in 1971 from the protected monuments under the provisions of the Act of 1961. Changes in the Jal Mahal monument has been brought with the consent of the Empowered Committee, these PIL petitions were clearly devoid of merit and the appellants herein had a right to start Phase II of the Project.

49. Insofar as MoEF, Government of India is concerned, it has clarified that it has only sanctioned the Project for Conservation and Management of Mansagar Lake in Jaipur in December 2002. Thus, the averment made in the petition that no sanction for Jal Mahal Tourism Project was obtained from MoEF is not disputed in the return filed by MoEF. It was stated that the Project for Conservation and Management of Mansagar Lake in Jaipur was sanctioned as per the mandate of the National Lake Conservation Plan. It was further contended that the Project for Conservation and Management of Mansagar Lake in Jaipur was sanctioned in December 2002 at the cost of Rs. 24. 72 crores under NLCP on 70: 30 cost sharing basis between the Government of India and the State Government of Rajasthan and the sanctioned order was issued which contained break - up of cost estimated. The different components which were approved further included realignment of drains, desilting, in situ bioremediation, sewage treatment plant and wetland construction, check dams, afforestation, nesting islands, etc. It has

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been accepted by MoEF that JDA was the nodal implementing agency for the project and MoEF, Central Government has released entire share of the Central Government amounting to Rs. 17. 30 crores. Other details had also been recorded on behalf of MoEF regarding the cost of upgradation and it was stated that the State Government was committed to bear the additional fund towards the development from its own resource. The State Government had informed that in addition to the sewerage work under NLCP Scheme, other projects are also being taken up thereby ensuring that all sewage generated in the Lake catchment area is being taken care of. The learned Judges of the Division Bench on a scrutiny of facts and on hearing the counsel for the contesting parties however were pleased to hold that the PIL was bona fide and in public interest. Resultantly, the High Court was pleased to declare that the Mansagar Lake precinct lease agreement dated 22-11-2005 giving 100 ac of land on lease for a period of 99 years to Respondent 7 Jal Mahal Resorts (P) Ltd. was illegal and void. The appellant Jal Mahal Resorts (P) Ltd. was, therefore, directed to restore the possession of the land to RTDC who in turn was directed to give back the land to Jaipur Development Authority, Jaipur Municipal Corporation and the State. As already stated in the introductory paragraph, certain other directions like removal of sedimentation and settling tanks from the Mansagar Lake basin was also issued by the High Court and cost also had to be realised from the appellant.

50. The appellant lessee Jal Mahal Resorts (P) Ltd. felt seriously aggrieved and affected by the impugned judgment and order of the High Court and therefore preferred this appeal along with the other connected appeals which are being heard and decided analogously.

51. In order to test the merits and demerits / strength of the case of the contesting parties, we deem it appropriate to take note of the historical background giving rise to this matter whereby certain factual aspects and the background may be traced out from 1962 when admittedly the two sewerage drains of the walled city of Jaipur, Nagtalai and Brahmapuri, were diverted to empty into the water body which led to its degeneration, siltation and settled deposits and contamination to such an extent that it could not support the aquatic life nor support flora and fauna in the surrounding areas. It is also an admitted position that the condition of Mansagar Lake and Jal Mahal also started substantially deteriorating over a period of time not only because of natural process of degeneration but also because of ill maintenance and monument

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reduced to such a dilapidated state that it required massive restoration work.

52. It is also borne out from the historical background and the sequence of events related by the contesting parties that the deteriorating condition of the Lake and the monument compelled the State Government to find ways and means to restore the monuments to their original glory. We have noted from the averments of the contesting parties that over a period of 30 years attempts were made by Government agencies and departments to restore ecological and environment condition of the Lake and its adjoining area but none of the attempts yielded any positive result because of paucity of resources to take up and sustain their restoration. The Government of Rajasthan, therefore, had taken a decision to adopt an incentivised approach to restore the Lake and monument and declare the precinct area on a public / private partnership format. In order to improve the condition of the Lake the State of Rajasthan in consultation with the experts and after detailed surveys and analysis adopted an approach of development covering three components which are:

- (i) Restoration of Mansagar Lake;
- (ii) Restoration of Jal Mahal; and
- (iii) Development of tourism / recreational components at the Lake precincts.

While restoration of Mansagar Lake was approved as per the averment of MoEF confined to the development of the Lake area, restoration of Jal Mahal which lies within the precinct of the Lake, development of the Lake and the adjoining area to the Lake fell within the domain of the Government of Rajasthan which related to development of tourism / recreational components at the Lake precincts.

53. On a scrutiny of the extensive factual details and the submissions advanced by the contesting parties, we have noted that the entire dispute is essentially confined to the lease deed which has been granted in favour of the appellant for development of 100 ac land adjoining the Lake area for a period of 99 years. The PIL petitioners although have urged that the land for which lease deed had been executed was wetland, it could not establish from any material on record that except an area of 14. 15 ac equivalent to 22 bighas and 10 biswas and another area comprising 8. 65 ac equivalent to 13 bighas and 17 biswas are in fact the contentious area on the basis of which the PIL petition has been filed engulfing the entire area of the lease deed. In this respect it cannot be overlooked that the Project which was visualised and given effect to, was with a view to sustainable conservation and preservation approach stipulated in consultation with the

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experts in pursuance to which a global tender was floated and implemented under extra supervision with all approvals in place from the authorities concerned.

54. The learned counsel for the appellant - petitioner Dr. Abhishek Singhvi assailed the impugned judgment and order of the High Court and urged that the High Court has proceeded on a patently erroneous, illegal and factually incorrect basis when it, inter alia, held as follows:

(a) That the public trust doctrine has been breached because land measuring 13 bighas 7 biswas, submerged area of the Lake, has been leased to the petitioner and resultantly the lease deed dated 22-11-2005 is void in law.

(b) That 14. 15 ac equivalent to 22 bighas and 10 biswas of land submerged forming part of the lake bed and could not have been leased out.

(c) The State Government has leased 25% of the Lake basin itself to the appellant - petitioner for preparing 100 ac of land and the lake level has been reduced to carve out 100 ac of land for the lease.

(d) The environment clearance given by State - Level Environment Impact Assessment Authority (SEIAA) to the petitioner on 29-4-2010 is void in law.

(e) That the project is in violation of R.4 of the Wetland Rules of 2010 and the Ramsar Convention. Thus, the lease deed is in contravention of the Wetland Rules and cannot be given effect to.

(f) That the sedimentation tanks are illegal as they could not be built without clearance from the Ministry of Environment and Forests.

(g) That the no - objection given by the Rajasthan Pollution Control Board to the petitioner's Project is of no avail in the absence of clearance by MoEF under the Environment (Protection) Act, 1986.

(h) That the lease has been executed in violation of the Rajasthan Tourism Disposal of Land Rules, 1997 (the RTDC Rules), the Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974, the Rajasthan Municipality Act, 1959 and the Jaipur Development Act, 1982 is liable to be cancelled.

(i) That the State was bound to give effect to the essential conditions of eligibility stated in the tender document and was not entitled to waive such a condition. Thus, action of Respondent 2 was not for bona fide reasons.

55. The learned Senior Counsel for the appellant Dr. Abhishek M. Singhvi at the outset submitted that the writ petitions before the High Court by way of public interest litigation ought to have been held barred by delay, laches as also on the ground that they were not bona fide and filed with ulterior motive. It was explained



that three purported PILs came to be filed by the writ petitioner - respondents herein in 2010 and 2011 after expiry of 5 years from the date of execution of the lease deed and the licence agreement dated 22-11-2005. In this respect, it was submitted giving out the sequence of events that the detailed project report ("DPR", for short) in regard to the project was prepared way back in 2001 which was the underlying basis for the project. The tender process commenced in 2003 and the fish - shaped leasehold area comprising 100 ac was part of the expression of interest dated 25-4-2003 published in various public media. Notice inviting tenders for the project was published in various public media on 30-7-2003. The pre - qualification bids were opened on 15-7-2003, the technical bids were opened on 21-10-2003 and the financial bids were opened on 3-12-2003. Thereafter, decision - making process was undertaken at several stages up to the level of the Chief Minister in order to determine the award of the project to the respondent lessee KGK Consortium which are indicated in the orders dated 9-2-2004, 27-2-2004, 30-9-2004 and 27-10-2005. Thereafter, finally on 22-11-2005, the lease and licence agreements were executed between the State Government and the appellant - petitioner. It was submitted that all the above steps were taken in public domain and in fact one of the PILs petitioner - respondent herein K. P. Sharma was aware of the developments as far back as in February 2005 that the project was to come up, yet he chose to sit by and do nothing until 2011 and during these intervening 8 years, the State Government and the appellant - petitioner substantially altered their positions by spending huge sums of money in implementing the project. It was, therefore, submitted that the motive of Respondent 1 PIL petitioner is questionable because he has sought to disrupt a project much after the public money came to be spent even though he could have approached the High Court earlier.

56. The learned counsel for the petitioner further submitted that one of the factors that the Court should look into before entertaining a PIL is to ensure whether the PIL has been filed promptly and in utmost good faith. It ought to further consider whether by allowing a grossly delayed PIL, the parties who have acted bona fide would be prejudiced and suffer. In the present case, the appellant - petitioner has spent gratuitously on the belief that it had the right to develop 100 ac of land leased and it spent Rs. 10 crores on restoring the Jal Mahal monument which is now fully restored and ready to be opened for the public. It has paid more than Rs. 22 crores on lease rent alone and has built a 1.75 km long public promenade over its leased land, substantively and the petitioner during this



period completed the whole Phase I under the agreement. In support of this submission, the appellant - petitioner relied upon the ratio of the decision delivered in Ramana Dayaram Shetty v. International Airport Authority of India, 1979 (3) SCC 489 where the Court despite holding that the State had violated Art.14 of the Constitution permitted the contract to continue. The Court in its conclusions overlooked the rights and liabilities of the successful party on the one hand and the conduct including delay and motive of the PIL petitioner on the other and finally upheld the right to continue contract under challenge as it was of the view that the Court may refuse relief to the party challenging the award of contract if the equities are in favour of the party holding the contract. In the instant case, it is not even the plea of the PIL petitioner that he himself has been deprived of his rights. Even in State of M. P, v. Nandlal Jaiswal, 1986 (4) SCC 566 this Hon'ble Court took the view that the writ petition suffered from laches and thus considered it fit to dismiss it.

57. It was added that in fact the PIL petitioner in the High Court Mr K. P. Sharma is guilty of suppression of facts from the High Court as he had sent a complaint letter dated 12-6-2007 to the Supreme Court and the SC Registry was directed to submit a report dealing with all the allegation raised by the PIL petitioner. The SC Registry took the report on record and closed the matter on 20-12-2007. The petitioner K. R Sharma thereafter did not move forward and suddenly after 4 years in April 2011, filed a writ petition by way of PIL in the High Court without even disclosing that the complaint had been enquired by the Registry of the Supreme Court and the matter was closed. However, the PIL petitioner made a further application to the Supreme Court in the year 2011 but the Additional Registrar of the Supreme Court vide letter dated 11-10-2011 informed the PIL petitioner that pursuant to the GOR Report, the file had been closed and the file was weeded out on 14-4-2011. Thus, the PIL petitioner was clearly aware of the factual report of GOR to the effect that the SC Registry had closed the matter based upon that report, yet the PIL petitioner K. R Sharma failed to disclose this vital fact to the High Court. Thus, the PIL petitioner deliberately tried to mislead the Court and has not come to the Court with clean hands. It was, therefore, contended that it cannot be overlooked that the complaint of the PIL petitioner to the SC Registry and its rejection thereafter based upon a factual report submitted by GOR is a vital and material fact that ought to have been disclosed to the High Court specially since the allegations in the complaint and the PIL substantially overlap.



58. It was next contended that the PIL by the petitioner K. R Sharma lacks the bona fides to prefer the PIL petition because his conduct is malicious and vindictive. Elaborating on this, it was stated that PIL petitioner K. R. Sharma with Dr. Brij Gopal had approached the appellant in the year 2007 purporting to offer their services for monetary reward. Since the appellant had already engaged a lead panel of conservationist and environmentalist, the services of the PIL petitioner were not required. Thereafter, the PIL was filed only as a way to vent his pique and frustration at the SLP appellant - petitioner herein. It was submitted that these vital background facts ought to have been disclosed to the Court at the time of preferring the PIL and since these facts were suppressed and not disclosed, it is apparent that the PIL petition had not been filed bona fide and had been preferred for own vexatious reasons.

59. It was further contended that the High Court vide the impugned order has proceeded on a patently erroneous, illegal and factually incorrect basis when it held that the public trust has been breached because land admeasuring 13 bighas 7 biswas forming part of lake bed which has been leased to the appellant - petitioner vide lease deed dated 22-5-2005 is void in law. It was explained in this regard that 13 bighas 17 biswas of land equivalent to 8. 65 ac of land from the very inception has been reflected and treated as part of the land that was proposed to be leased. This land was described in the original detailed project report which was prepared much earlier in the year 2001 when this land formed part of the fish - shaped land. It is highlighted that during the first attempt to initiate Project Jal Mahal and preparation of the detailed project report ("DPR", for short), the appellant - petitioner was nowhere in the picture. In this regard, it had been contended by the respondent - PIL petitioner that the area admeasuring 13 bighas 17 biswas bearing Khasra No. 67/316 (8. 65 ac approx.) is part of the Lake area as per revenue record which is recorded as "gair mumkin talab" and therefore could not have been leased to the petitioner. Contesting this plea, it was submitted by the appellant - petitioner that Khasra No. 67/317 does not form part of the submerged area and is in fact a part of landmass which is outside water. The survey reports placed on record leave no doubt on this score.

60. It was submitted by the petitioner that the consistent and specific case of Respondent 6 Project Development Corporation of Rajasthan ("PDCOR", for short), was that this land does not constitute part of submerged land. However, revenue record reflects this land as gair mumkin talab and the State has



entrusted the preparation of the Jal Mahal Tourism Project that includes ecological restoration of Mansagar Lake, restoration of the Jal Mahal monument and the lakeside development on the land leased to the petitioner. However, the appellant - petitioner has also added that it has no desire or intention to construct or in any manner commercially utilise this land and that it should be open to the public. As a matter of fact, Respondent 2 State of Rajasthan had specifically informed the High Court that no construction shall be allowed to be raised on the said area and hence this can hardly be a ground for quashing the award of the entire project.

61. It has been submitted that this Court can uphold the award of the project despite the alleged illegality by keeping the area open in green and the same cannot be a reason to entail a consequence of cancellation of the entire project resulting into huge loss of project to larger public interest. Cancellation of the lease and licence agreement in such circumstance would be patently erroneous and in conflict with settled law. The learned counsel for the petitioner has relied upon the ratio of Century Spg. and Mfg. Co. Ltd. v. Ulhasnagar Municipal Council, 1970 (1) SCC 582 Finally, on this point, it was urged that the High Court at the most could have severed reference to the said 13 bighas 7 biswas of land but should have upheld the lease pertaining to the rest of the land as the lease agreement expressly permits such severance vide Clause 18. 4 of the lease deed.

62. The learned Attorney General on behalf of the State of Rajasthan had contended that spot inspection by Jaipur Development Authority ("JDA", for short) showed that no lake existed in 13 bighas 17 biswas of land and that this land was a landmass. The reason for including this area in the lease deed was to maintain the shape of the allotment. It was further argued that the Court may direct this area to be kept open as no construction zone and may be kept open excluding the area which has been consumed in public promenade.

63. The High Court, however, had held that 14. 15 ac of the land submerged formed part of the lake bed and could not have been leased out. Assailing this view taken by the High Court, it was contended that this Court would have to adopt an objective test to determine which land is classified as lake bed and for this purpose reliance has been placed on the ratio of the decision delivered in Noida Memorial Complex Near Okhla Bird Sanctuary, In re, 2011 (1) SCC 744. It

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was submitted that reference to the revenue record with respect to 100 ac lease shows that even though land admeasuring 14. 15 ac is submerged in water, historically and contemporaneously this land has been classified as "barren" land and not as part of the lake bed and also for that reason is not a wetland. It was further elaborated that PDCOR, the body that prepared the detailed project report had carried out land surveys, prepared topographical surveys, output surveys, water quality tests and received secondary data from Survey of India, etc. which has been incorporated in the counter - affidavit before this Court and before the High Court explaining the reasons for submergence. PDCOR has stated in its affidavit that the said 14. 15 ac of land was submerged due to huge silt deposits that had caused the depth of the Lake to reduce and as a result the water had spilt out into adjacent land being the 14. 15 ac of land concerned. Thus, the said land was never part of the lake bed and for this reason, is not a wetland. Factually, out of the 14. 15 ac permitted to be reclaimed by the petitioner under the lease deed dated 22-11-2005 the petitioner has only reclaimed approximately 11 ac out of which approximately 6-7 ac has been consumed for creating a public promenade open to the public.

64. In fact, the learned Attorney General on behalf of the State had also argued that this land of 14. 15 ac was never part of the lake bed as per revenue records. The Attorney General also stated further that the approach of the High Court is completely contradictory. While on the one hand, in respect of the 13 bighas 17 biswas area, the revenue records are relied upon, in respect of the area of 14. 15 ac, the revenue records which clearly show that this area is not a part of the Lake, is disregarded. Based on the revenue records referred and shown to this Court, the inevitable and indisputable conclusion that appears is that the entire 100 ac land leased to the petitioner is not a part of the lake bed except 13 bighas 17 biswas bearing Khasra No. 67/317 (8. 65 ac). It would thus follow that this land cannot form part of the lake bed under any circumstance.

65. Besides the above, it was urged that over the years, huge amount of silt had been deposited on to the lake bed by Nagtalai and Brahmapuri Nallah as a result of which the depth of the land has reduced which resulted in spilling of the water from the Lake into adjacent areas including the land adjacent to it.

66. On the premise of the aforesaid facts, it was urged that there is no violation of the public trust doctrine as public trust doctrine cannot be applied to defeat

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public interest - The project as approved and when implemented would in fact create an unprecedented lake water front ambience and would be the only large water body in Jaipur that had been subjected to massive destruction over the years. In fact, the project would inter alia create approximately 1.5 km long walkway (promenade) along the Lake which has been constructed by the appellant - petitioner on the leased land that is open for use by the public. Importantly, another 3.5 km promenade has been built by JDA along the Lake. A perennially filled Lake admeasuring 310 ac (approx.) with a depth between 3 m to 5 m and a complete renovation and restoration of Jal Mahal monument with a pleasure pavilion built in the mid - 18th century, the restoration includes artistic paintings depicting Rajasthani culture. The project includes access to the restored monument by the public on paying a nominal charge of Rs. 25 per person essentially a cost towards being carried by boat to the monument, a crafts village to promote handicrafts and other world famous heritage products of Rajasthan, an amusement park for the public, a restaurant positioned with adequate setback from the Lake, for the public to enjoy clean surroundings, a heritage resort, a convention and exhibition centre to serve multipurpose functions. It was submitted that these highly pro - public elements cannot be negated and destroyed by erroneous contentions raised in the PIL. Indeed, the aforesaid enormous improvement to the environment involving air, water and land, is itself in high public interest and this Hon'ble Court should countenance no dilution in that.

67. It was next submitted that the conclusion in the impugned order that the Lake has been artificially reduced to get more land and Lake water level and its spread had been reduced is completely erroneous, unsustainable because it is the petitioner and the State who have together restored 310 ac (approx.) of the Lake that has resulted in ensuring that the Lake remains filled with water around the year having the depth of around 3 m to 5 m, whereas earlier it was nothing but a cesspool of filth, sewage and silt, etc.

68. The factual context of this issue has been summarised by the petitioner in order to demonstrate the grave and patent error of the impugned order and it has been stated as follows:

- (i) The level of Jaipur - Amer Road is 100 m RL, and the full tank level of the Lake is 99 m RL.
- (ii) The plinth level of the Jal Mahal monument is however only 98.12 m RL i. e.

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almost 2 m below the Jaipur - Amer Road level.

(iii) It is obvious that a water level equal to the Jaipur - Amer Road level would not only create problem for surrounding areas but would seriously damage and impair the Jal Mahal monument by entering it and eroding its structure.

(iv) Consequently, from the creation of DPR in 2001 which was not known to the petitioner, the Government has recognised that the water level of the Lake should not be kept above 98 m RL.

69. It is stated that DPR is not only a final document but in its Final form has been approved without objection or protest by the Ministry of Environment and Forests ('MoEF', for short) under the National Lake Conservation Plan (NLCP) Guidelines and in particular the clause dealing with maintenance of water level at 98 m RL which has been considered and approved by MoEF. In any event, without prejudice to the foregoing, it was submitted that the impugned order is patently erroneous in that it purports to act as an MoEF, Pollution Control Board, State Environment Regulatory Authority, independent and international experts and consultants, all rolled into one. It is impermissible under established judicial review parameter to admit the role of second guess expert body. It is equally impermissible for a Court to substitute its review in respect of highly complex factual technological and scientific issue. The Court cannot sit either as an expert or arbitrate or as an appellate body nor can it allow a PIL petition to convert it into a super regulator. To reinforce the submission, reliance was placed on the ratio and observations made in *Tata Cellular v. Union of India*, 1994 (6) SCC 651. It was submitted that unfortunately the impugned order has committed precisely the aforesaid errors repeatedly, inter alia, in respect of size of lake and water level of the Lake.

70. It was pointed out that prior to the appellant - petitioner taking up the project, the Lake was virtually empty except with dirt, sewage and silt. The very use of the words "reducing of the water level" is highly misleading and inappropriate. It is the petitioner along with the State who has ensured the availability of clean water around the year rather than reducing the level of the Lake. It was still further added that since Mansagar Lake is a manmade lake, the principal source of water during and after the restoration work has been treated is sewage / effluence coupled with some replenishment during monsoon. Consequently, in view of the release of post - treated sewerage water into the Lake, the regulation of the water level at 98 m RL has always been an intrinsic part of the

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Government's regulation of the entire area.

71. It was submitted that it is axiomatic in law and in fact that the award of a tender must necessarily be judged by the terms of the tender, subject to permissible variations. It is most significant to note that RFP on the basis of which everyone was invited to tender prescribes, specifies and stipulates the clear water level at 98 m RL. It is common ground that neither the PIL petitioner nor any bidder or anyone else has challenged the per se stipulation of the water level at 98 m RL. Therefore, the allegation of the PIL petitioner is absolutely baseless. Consequently, it was contended that the respondents' contention that the appellant - petitioner is guilty of reducing Lake water level is highly misleading and distorted submission which has been accepted in the impugned order contrary to the factual position.

72. It was further urged that the PIL petitioner - respondents herein penchant for false, distorted and misleading submissions alleging reduction of the size of the Lake and the spread of the Lake alleging that this was done by keeping the water level at 98 m RL thereby giving enhanced area of land to the appellant - petitioner herein and correspondingly, diminishing the spread of the Lake is equally fraudulent and deliberately distorted for the following reasons:

It is vital to note that the detailed project report (DPR) made in 2001 at least two years before even the expression of interest was issued for the present project and the appellant - SLP petitioner herein was nowhere in the picture categorically gives the landmass area available at each of the three different levels of 100 m RL, 99 m RL and 98 m RL of the Lake and then goes on to specifically declare that the best and the only feasible solution to prevent damage to the Jal Mahal monument is to keep the water level at 98 m RL, neither higher nor lower vide DPR. Consequently, the appellant - SLP petitioner herein had nothing whatsoever to do with a decision to maintain the water level at 98 m RL. It is, therefore, deliberately misleading for the PIL petitioner - respondent herein to suggest that because the water level is kept at 98 m RL, the SLP petitioner has been given a greater land area. Thus, it is submitted that it is patently false for the simple reason that irrespective of the water level, the land actually given in the RFP is the necessary controlling tender document is no more than 100 ac and even if 99 m RL which is full tank level had been fixed as the Lake level, even then the land available for the successful bidder would be 100 ac. This underscores the point that 98 m RL level was not the guiding factor while granting

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100 ac to the petitioner.

73. It was further contended that the High Court has erroneously relied on a PWD document that states that the area of the Lake has reduced to 0.79 sq km after Independence whereas prior to Independence, according to the High Court, it was 1.154 sq km. However, the High Court does not appreciate and consider that DPR was prepared in 2001 after carrying out extensive surveys and preparing topographical maps, after doing all such research and based upon all such material it was determined by DPR that the size of the Lake was 130 ha more than what it purportedly was prior to Independence. It was, therefore, submitted that the High Court's finding on this aspect suffers from lack of application of mind to the material on record and it was submitted that if anything, the size of the Lake from Independence has only increased. Consequently, it was submitted that the two vital and unchangeable parameters show the falsity of the PIL petitioner's contention viz.

(a) A decision fixed and taken more than two years before the tender in 2001 to get the Lake level at 98 m RL.

(b) A decision taken in RFP to lease out no more than 100 ac; once these two polar points are fixed, assuming everything against the appellant - petitioner herein or the State Government, there can be no prejudice or detriment of any kind to public interest.

74. It was next contended that the High Court's conclusion on desilting is patently erroneous and unsustainable because desilting was a sanctioned activity under NLCP and MoEF had sanctioned funds for the said purpose. DPR had provided for desilting as a measure to increase the depth of the Lake so as to enhance the water holding capacity, thus, desilting had a scientific basis to it. In fact, in the meeting dated 3-4-2006 which was held to review the Lake restoration under the Chairmanship of the Principal Secretary, Urban Development and Housing, permission was granted to the appellant - petitioner to desilt the Lake to achieve 2 m depth at its own cost. Therefore, the petitioner had valid permission from the State Government to carry out desilting and there was nothing illegal in the manner rather than minutes of the meeting show that it was a well - considered decision of the Committee and was in line with DPR.

75. The appellant - petitioner submitted that the High Court's finding is patently erroneous and unsustainable as except for the revenue entries showing 13

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bighas and 7 biswas of land as gair mumkin talab no other parcel of land that was leased to the petitioner was part of the lake bed as per the revenue entries. Only because silt was dumped on the land leased to the petitioner, cannot make land that was not part of the lake bed (sic a part thereof), as is evident from the revenue record, and is now suddenly being asserted as part of the lake bed. It is being stated that it is always advisable that lakeside development should be at higher level than the water level.

76. On a consideration of the rival submissions urged on behalf of the contesting parties, in the light of the factual matrix and the materials which were produced before the High Court, it clearly emerges that the PIL petitioner - Respondent 1 herein K. P. Sharma had contended that the lease executed and granted to the appellant for development of 100 ac land was illegal, arbitrary, disturbing the natural resource of the Lake, which was fit to be struck down as invalid as the 100 ac land was carved out from the Lake area and thus the breadth and height of the Lake was reduced.

77. However, on a scrutiny of materials on record which included the revenue record of the land in question, it is sufficiently clear that the manmade Mansagar Lake comprised of an area of only three hundred acres towards the Lake area. The counsel for the respondent - PIL petitioners, however, at the outset and as the first and foremost point sought to make good the submission that the Lake area was reduced by 100 ac which was leased out to the appellant lessee by reducing the Lake area. But the counsel in spite of his best efforts could not establish the same except the fact that 8. 65 ac and 14. 15 ac were submerged area of the Lake and lake bed respectively which was carved out as land area so as to make it a part of the 100 ac land area. In fact, even on perusal of the impugned judgment and order of the High Court it could not be established even remotely that the entire 100 ac land which comprises the area of lease deed is a part of the Lake or lake bed in any manner. In fact, all the contentions which had been raised before the High Court as also before this Court in general terms urged that the Lake area has been reduced to 310 ac and 100 ac have been carved out of 400 ac of Lake area which was reduced to 310 ac. But in clear, specific or precise terms, it could not go beyond urging that 8. 65 ac which was submerged and hence a portion of the Lake area, could not have been made a part of the leased area. In this context, it was further urged that this area being a wetland, could not have been included in the leased portion of the land for which



the development was permitted by executing a lease deed.

78. When this plea was scrutinised in the light of the revenue record, it could be noted that this area has been recorded in the revenue record as "gair mumkin talab". Based on this entry, it was submitted by the P1L petitioner - respondent herein that "gair mumkin talab" area could not have been allowed to be developed by raising construction as that would be clearly contrary to the Wetland Rules which were enacted for the first time in the year 2010. In other words, the contention of the PIL petitioner - Respondent 1 herein is that since 8.65 ac of land which forms part of 100 ac leased area granted to the appellant is submerged under water which area according to the PIL petitioner - respondents would also form part of the Lake, the State Government could not have included this land in the leasehold area to be granted to the appellant - petitioner.

79. The appellant lessee on his part confronting this submission argued that this Court would have to adopt an objective test to determine which land claimed as lake bed and wetland is fit to be accepted and for this purpose placed reliance on the ratio of the decision delivered in Noida Memorial Complex Near Okhla Bird Sanctuary, In re 2011 (1) SCC 744 paras 24 and 25 which held as follows: (SCC pp. 758-59)

"24.... In support of the applicants' case that there used to be a forest at the project site he relies upon the report of the CCF based on site inspection and the Google image and most heavily on the FSI Report based on satellite imagery and analysed by GSI application. A satellite image may not always reveal the complete story. Let us for a moment come down from the satellite to the earth and see what picture emerges from the Government records and how things appear on the ground. In the revenue records, none of the khasras (plots) falling in the project area was ever shown as jungle or forest. According to the settlement year 1359 Fasli (1952 AD) all the khasras are recorded as agricultural land, banjar (uncultivable) or parti (uncultivated).

25. Noida was set up in 1976 and the lands of the project area were acquired under the Land Acquisition Act mostly between the years 1980 to 1983 (two or three plots were notified under S.4/6 of the Act in 1979 and one or two plots as late as in the year 1991). But the possession of a very large part of the lands under acquisition (that now form the project site) was taken over in the year 1983. From the details of the acquisition proceedings furnished in a tabular form (Annexure 9 to the counter - affidavit on behalf of Respondents 2 and 3) it would

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appear that though on most of the plots there were properties of one kind or the other, there was not a single tree on any of the plots under acquisition. The records of the land acquisition proceedings, thus, complement the revenue record of 1952 in which the lands were shown as agricultural and not as jungle or forest. There is no reason not to give due credence to these records since they pertain to a time when the impugned project was not even in anyone's imagination and its proponents were nowhere on the scene" (emphasis supplied)

80. Placing reliance on the aforesaid categorical view taken by this Court in Noida Memorial Complex case, 2010 KHC 4956 : 2011 (1) SCC 744 it was submitted that a reference to the revenue records with respect to the 100 ac lease shows that even though the land admeasuring 8. 65 ac might have been submerged under water, historically and contemporaneously, 14. 15 ac has been classified as "barren land" and not as part of the lake bed. It, therefore, must follow as per the submission of the counsel for the appellant placing reliance on the revenue records that 14. 15 ac, forming part of 100 ac leased to the appellant, is not a part of the lake bed and also for that reason is not a wetland.

81. It was further urged that Project Development Corporation (PDCOR) of the State of Rajasthan, the body that prepared the detailed project report in the year 2001, when the appellant - petitioner was not in the picture in any manner carried out land surveys, prepared topographical surveys, output surveys, water quality tests and received secondary data from the Survey of India, etc. as in the counter - affidavit before this Court and before the High Court explained the reasons for emergence of this area of 14. 15 ac of land. It was further pointed out that PDCOR has stated in its affidavit that the said 14. 15 ac land emerged due to huge silt deposits that had caused the depth of the Lake to reduce and as a result, the water had spilt out into the adjacent land being the 14. 15 ac of land concerned. Based on this project report prepared at the instance of PDCOR, it was argued that the said land was never part of the lake bed and is not for this reason a wetland. It was further added that factually out of 14. 15 ac permitted to be reclaimed by the appellant under the lease deed dated 22-11-2005, the appellant has only claimed approximately 11 ac out of which approximately 6-7 ac has been consumed by the appellant for creating a public promenade open to the public.

82. The appellant sought to add additional weight to this argument by placing

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reliance on the submission of the learned Attorney General on behalf of the State who had argued that this land of 14. 15 ac was never part of the lake bed as per the revenue records. The counsel further pointed out that the Attorney General had further submitted that the approach of the High Court was completely contradictory in this regard. While on the one hand in respect of the 13 bighas 17 biswas area equivalent to 8. 65 ac, the revenue records had been relied upon, the same was not taken care of and relied upon in respect of the area of 14. 15 ac although, the revenue records clearly show that this area is not a part of the Lake and yet it was disregarded by the High Court.

83. On the aforesaid aspect, it was further urged that based on the revenue records referred and shown to this Hon'ble Court, the inevitable and indisputable conclusion that appears is that the entire 100 ac land leased to the appellant is not a part of the lake bed including 13 bighas 17 biswas bearing Khasra No. 67/317 corresponding to 8. 65 ac. It was submitted that from this it ought to follow that this land could not have been held to be forming a part of the lake bed under any circumstance.

84. The PIL petitioner - Respondent 1 herein had further argued that the project is illegal because no sanction for this project had been received under the Wetland Rules, 2010 and, therefore, the respondents have sought for a declaration of the lease deed being void.

85. Challenging this part of the argument urged on behalf of the PIL petitioner - respondents herein, it was contended on behalf of the appellant that the language of the Wetland Rules, 2010 when referred to in detail makes it clear that these Rules can only apply in a situation where the Central Wetland Authority, a Government of India body established under the Wetland Rules, 2010 sends its recommendation to the Central Government for notifying a certain area as a wetland. It was urged that in the present case, it is undisputed that when the lease deed was executed and environmental clearance (EC) from State - Level Environment Impact Assessment Authority (SEIAA, for short) was granted on 29-4-2010, the Wetland Rules, 2010 were not even enacted. Therefore, the question of the Wetland Rules, 2010 applying to the project retrospectively would not arise. Even otherwise under the Wetland Rules, 2010, there is a detailed procedure specified which has to be complied with mandatorily before an area can be notified as a wetland, It was submitted that in the present case even after

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the Wetland Rules, 2010 came into force, no such procedure admittedly has been undertaken to identify Mansagar Lake as a wetland when these PILs were filed. It was further contended in this regard that such a project is contrary to the specific intent of the framers which is unequivocal viz. even assuming that an area is zoologically, scientifically, environmentally or technologically to be factually a wetland, it does not become so legally unless and until the persona designata under the delegated legislation so declares it to be. Admittedly, that persona designata is only the specialised authority appointed under the rules and has chosen not to exercise its power for Mansagar Lake.

86. It was still further contended on behalf of the appellant that the technique of applying a law by notification to a specific fact situation is an age old parliamentary technique and / or the technique applied by the framers of delegated legislation like the Central Government who framed the Wetland Rules. Even the Apex Court would not consider it legally appropriate to issue a mandamus to notify and bring into force legislation or a delegated legislation until and unless the persona designata under that regime chooses to do so. In support of this proposition of law, learned counsel for the appellant has placed reliance on the following case law: A. K. Roy v. Union of India, 1982 (1) SCC 271 : 1982 SCC (Cri) 152, SCC at pp. 310 & 316, paras 51 and 59 wherein it is recorded as follows: (SCC pp. 310-11, para 51)

"51.... the question which was put in the forefront by Dr. Ghatate, namely, that since the Central Government has failed to exercise its power within a reasonable time, we should issue a mandamus calling upon it to discharge its duty without any further delay. Our decision on this question should not be construed as putting a seal of approval on the delay caused by the Central Government in bringing the provisions of S.3 of the 44th Amendment Act into force.... But we find ourselves unable to intervene in a matter of this nature by issuing a mandamus to the Central Government obligating it to bring the provisions of S.3 into force. Parliament having left to the unfettered judgment of the Central Government the question as regards the time for bringing the provisions of the 44th Amendment into force, it is not for the Court to compel the Government to do that which, according to the mandate of Parliament, lies in its discretion to do when it considers it opportune to do it. "

87. Similarly, reliance was placed on the judgment and order of this Court in SCC at pp. 49-50, para 7 delivered in Union of India v. Shree Gajanan Maharaj



Sansthan, 2002 (5) SCC 44 : 2002 SCC (L&S) 627 when it concurred with the view that no mandamus could be issued to the executive directing it to commence the operation of the enactment although non - issuance of such a direction should not be construed as any approval by the Court of the failure on the part of the Central Government for a long period to bring the provisions of the enactment into force; leaving it to the judgment of the Central Government to decide as to when the various provisions of the enactment should be brought into force.

88. Relying on these decisions it was urged that from the ratio of these decisions it follows that since Mansagar Lake itself is not a wetland, therefore, the contention of the respondents that the entire 100 ac land leased to the appellant is a part of the lake bed and, therefore, a wetland ought to be rejected outright and the finding of the High Court on this aspect ought to be reversed. However, Mr Jaydeep Gupta, learned Senior Counsel who was appointed to represent the State of Rajasthan after the change of the Government in 2014 in place of the Attorney General Shri G. E. Vahanvati who had already concluded his arguments on behalf of the State of Rajasthan, submitted that the incumbent Government of Rajasthan cannot accept the interpretation given to the Wetland Rules, 2010 by the previous Government. As per the subsequent stand taken by the counsel for the new Government, the previous Government ought to have identified wetland in the State within one year of the Wetland Rules, 2010 being enacted. According to the counsel for the new incumbent Government, since the previous Government did not undertake the activity of identifying Mansagar Lake as a wetland, the 2010 Rules have been violated. Thus, it had been urged by Mr Gupta that the stand taken by the previous Government before the High Court as well as this Hon'ble Court is untenable.

89. The appellant, in turn, has submitted that the change in stand by the incumbent Government should not be permitted by this Court. It was submitted that reference to the pleading put forward by the State Government on the issue of the wetland before the High Court and this Court has been categorical and specific. It has been expressly pleaded that the Wetland Rules, 2010 do not apply to the Project and that the said Rules are not retrospective so as to affect the project. This stand has been specifically taken in the counter - affidavit filed by the State Government in the three special leave petitions preferred by Jal Mahal Resorts (P) Ltd, It was, therefore, submitted that assuming without admitting that

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the incumbent State Government can withdraw its three special leave petitions, the appellant strongly disputes this and it does not follow and should not be allowed that the stand taken by the State Government in the counter - affidavit in the three SLPs filed by the appellant and the three SLPs filed by the State Government can in any manner be changed or altered. In addition, it was submitted on this aspect that the stand of the State Government in the High Court should not be allowed to be changed before the Supreme Court merely due to change of the Government after new elections were held and it has been strenuously submitted in the pleadings before this Court by the State Government earlier through the Attorney General that the High Court had gravely erred in law in holding that the Wetland Rules, 2010 were applicable to the Project. The attempt being made by the State Government shifting its stand which was taken before the High Court and also before this Court when the learned Attorney General had appeared and concluded the arguments, it is clearly a change in stand from the stand taken by it from the High Court right up to this Court.

90. It was submitted that the underlying basis for the incumbent State Government to change its stand has been justified by it based on its understanding of the Wetland Rules, 2010. According to the incumbent Government and its political philosophy Mansagar Lake ought to be identified as a wetland. According to the incumbent Government the fact that Mansagar Lake was not identified as a wetland by the previous Government itself was an illegality and was contrary to the Wetland Rules.

91. Contesting the aforesaid stand taken by the respondent State, the appellant strongly urged that such an interpretation of the Wetland Rules had been taken by the previous Government of Rajasthan as a matter of policy which had decided not to notify Mansagar Lake as a wetland keeping in mind the Master Plan of Jaipur since 1976. As per the Master Plan, the Vijay Mahal area, approximately 200 ac (including the entire 100 ac leased to the appellant) was to be urbanised and developed for tourism purposes. Therefore, as per the contention of the appellant, this area naturally could not have been identified as wetland. In the alternative, it was submitted that even otherwise the 100 ac lease was not part of the lake bed and, therefore, the question of identifying the leased 100 ac land as a wetland is out of the ambit and scope of the question involved.

92. In regard to the plea pertaining to the Master Plan of Jaipur, it was submitted

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that the Master Plan has statutory force and since the Master Plan itself has identified this area to be urbanised, the question of it being declared as a wetland does not arise. In fact, the Master Plan consistently from 1976 onwards has provided that approximately more than 200 ac of land is available for the development of tourism facilities on the southern and western sides of Mansagar Lake. In view of these aspects, learned counsel for the appellant urged that Mansagar Lake is not a wetland under the Wetland Rules, 2010 and 100 ac leased land was not a part of the lake bed and, therefore, the leased land of 100 ac is not a wetland under the Wetland Rules, 2010. As already stated hereinbefore, it was urged that the Wetland Rules, 2010 are not retrospective in nature since the lease deed was executed in the year 2005 and the Wetland Rules framed thereunder and enacted only five years later in 2010 when implementation of the project had already started.

93. Insofar as the plea taken by the PIL petitioner - respondent herein regarding reduction of the Mansagar Lake area in order to carve out 100 ac of land is concerned, it was explained by relying upon the historical background of the matter that Maharaja Man Singh of Amer who ruled from the year 1589 to 1614, constructed Mansagar Dam much earlier than Jaipur was founded. Mansagar Lake was created by damming Darbhawati River on the north side of the Khilangarh fortress. The purpose of the Lake was to create a water body that would cater to the irrigation needs and groundwater recharge of the area.

94. It was urged by the petitioner that Mansagar Lake is a manmade water body and its beauty, therefore, is not a natural one but the creation of man. Elaborating on this part, it was submitted that certain undisputed facts established that 100 m RL is the Amer Road level. At 99 m RL is the full tank level and this has been admitted by the PIL petitioner K. P. Sharma in his writ petition before the High Court and 98. 12 m RL is the plinth level of Jal Mahal monument as enumerated in the detailed project report ("DPR", for short). It was submitted that admittedly one of the primary objects of the project was to restore Jal Mahal monument. Thus, water level had to be maintained at a level that ensured plinth / ground floor of the monument is not submerged and further weakened. It was submitted that the Master Plan of Jaipur, 1976 establishes that approximately 200 ac of land located in Vijay Mahal (including the 100 ac land leased to the appellant) was to be developed for tourism purposes. Thus, obviously, the 100 ac land leased to the appellant pre - existed the execution of the lease deed dated 22-11-2005 and



was available much before the project was undertaken.

95. It was further contended on behalf of the appellant that the hydrological modelling undertaken by Project Development Corporation of Rajasthan (PDCOR) in detailed project report (DPR) scientifically determined a sustainable water level. DPR explored the following water level scenarios and finally chose a water level of 98 m RL. The water level scenarios examined scientifically reported that water could not be maintained at 100 m RL because at this level in the monsoons water can flood the neighbouring areas that are densely populated since at this level water would be at Amer Road level. Consequently, the Jal Mahal monument would be nearly wholly submerged. It was added that technically supplying so much quantity of water all the year around was not possible.

96. It was further contended that the water could not be maintained at 99 m RL because at this level lake spread and volume is difficult to maintain throughout the year this being a technical matter. Consequently, the lower floor of Jal Mahal monument would be submerged having only terrace and first floor for reuse. Thus, the appellant submitted that 98 m RL being the next lowest water level after 99 m RL was considered ideal for maintaining water level. It was argued that most important thing if water level were to be fixed at 99 m RL i. e. full tank level then also there would have been more than 100 ac of land available to lease, yet the appellant was granted only 100 ac.

97. The learned counsel for the appellant further elaborated on this by relying upon the detailed project report (DPR) and urged that as a matter of fact DPR found that the Lake at present is an approximately 130 ha in its full spread. However, "at first, a much smaller natural shallow lagoon existed, on the edge of which, the Jal Mahal structure was located. Thus, originally the spread of the Lake was much smaller than at present. The spread of the Lake has increased and the depth decreased in recent times mainly due to the silt deposits as a result of erosion. "

98. It was contended that neither the respondent - PIL petitioners have challenged the correctness of DPR nor its scientific basis. Thus, it is not open to them to advance arguments that indirectly seek to question DPR. It was submitted that the respondents are bound by the report of DPR entirely and wholly.

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99. The appellant further referred to the arguments advanced by the learned Attorney General on behalf of the State of Rajasthan and submitted that the approach of the High Court was wrong as it proceeded on an erroneous basis that the lake bed was manipulated to make the Project viable while there was no such manipulation. The Attorney General has further argued that DPR was correct and the decision to maintain water level at 98 m RL was a conscious, well - informed and deliberated decision taken to protect the integrity of the monument. The counsel for the appellant, therefore, submitted that since the water level was determined scientifically and much before the appellant came into the picture, rather was not even born in regard to this dispute, the question of its tampering with the Lake so as to reduce the size of the Lake does not arise and, therefore, the finding of the High Court on this aspect is contrary to DPR and hence deserves to be set aside.

100. In regard to the question pertaining to general conditions in Environment Impact Assessment, 2006 (EIA), it was submitted on behalf of the appellant that even according to the respondent, Ministry of Environment and Forests (MoEF) is the appropriate authority with jurisdiction to decide on the environmental impact of the project in the present case. MoEF being the author of EIA, 2006 has construed its own notification (EIA, 2006) to mean that general conditions do not apply to Item 8(a) and S(b) projects. Adding further on this it was contended that it ought to be clarified that the need to issue OM dated 24-5-2011 was felt because OM dated 28-4-2011 in broad terms provided that Category B projects that fell within 10 km of notified critically polluted areas would be treated as Category A and general condition would be applicable to such projects. MoEF in order to clarify OM dated 28-4-2011 issued OM dated 24-5-2011 that expressly provided that the projects falling under Items 8(a) and / or 8(b) do not attract general condition even if such projects fell within critically polluted areas.

101. It was urged on behalf of the appellant that it has received environment clearance from SEIAA dated 29-4-2010. This clearance is in terms of EIA, 2006 and is, therefore, valid. It was added further that as the general conditions do not apply to the present project, as made clear by MoEF in its affidavit and also by OM dated 24-5-2011, the appellant did not require clearance from MoEF. Therefore, the impugned judgment of the High Court ought to be reversed on this aspect as it failed to appreciate these crucial facts. It was still further submitted on this that even otherwise on an interpretation of EIA, 2006, it becomes apparent

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that MoEF has consciously decided not to stipulate general condition in Column 5 against Items 8(a) and 8(b) because EIA, 2006 has issued originally and till date does not stipulate general condition against Items 8(a) and 8(b) in the Schedule, while it does so with respect to a number of other items in the Schedule.

102. It was added on behalf of the appellant that MoEF vide Notification dated 1-12-2009 had carried out wide ranging amendments to the Schedule in EIA, 2006 and in doing so general conditions had been stipulated / inserted for the first time against certain items. However, while doing so, MoEF has not stipulated the general condition against Item 8(a) or 8(b). It is, therefore, evident that MoEF consciously as a policy decision has chosen not to stipulate general conditions against Item 8(a) or 8(b). Further Para 4(iii) of EIA, 2006 provides activities included as Category B in the Schedule which require prior environment clearance from SEIAA except those that fulfil general conditions stipulated in the Schedule. It was, therefore, submitted that since general condition is not applicable to Items 8(a) and 8(b) projects irrespective of the location of such project, therefore, the contention of the PIL petitioner - respondents and the finding of the High Court that since the project is within 10 km of Nahargarh Sanctuary it ought to be declared as illegal, is without substance and is liable to be rejected.

103. The learned Attorney General Mr Vahanvati on behalf of the State of Rajasthan had also argued that the finding of the High Court on this aspect is entirely incorrect as the environment clearance from MoEF is not required for this project as the general conditions specified in EIA, 2006 did not apply to this project. Therefore, neither general nor specific conditions apply to Item 8 to the Schedule and hence environment clearance given by SEIAA is legal and valid.

104. The PIL petitioner - respondents had also contended that the Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974 (for short "the 1974 Rules") have been violated since Jaipur Municipal Corporation while allotting land to RTDC has violated certain norms and that the premium was not charged from RTDC for the land allotted to it and secondly, without any General House Resolution allotment of land was made to RTDC. On this aspect, it was submitted on behalf of the appellant that both the contentions are misplaced for the reason that under R.18(2) and the proviso to the 1974 Rules, the State Government can exempt the payment of cost of land being allotted by Jaipur Municipal Corporation

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to any Government department. In the present case, the Government decision dated 9-2-2004 makes it clear that RTDC shall not have to pay any cost of land to the land owning agencies including Jaipur Municipal Corporation as the whole intent of this allotment in favour of RTDC was to only facilitate the project of the Government. As a matter of fact, Jaipur Municipal Corporation through its General House Meeting dated 28-4-2004 was attended by at least 58 of its members who resolved to allot the said land to RTDC in order to implement the Project. Thus, it is more than apparent that the Government had exempted charge of any kind from RTDC for the transfer / allotment of land to which a furthermore RTDC through a transparent and well - considered resolution comprising of its members resolved to allot this land to RTDC. Thus, the contention of the respondent that the 1974 Rules have been violated is wholly unsustainable and finding of the High Court on this aspect therefore needs to be reversed and set aside.

105. It was still further contended that the Jaipur Development Authority Act, 1982 was not violated in any manner and the appellant submitted that R.18 of the Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974 enabled JDA to allot land without any adding cost of the land if the State Government exempts any department of the Government from paying cost of the land. In the present case, the Government of Rajasthan vide its meeting dated 16-9-2003 had noted that JDA had issued orders for transfer of land to RTDC. The object of a gazette notification under S.54(3) is to keep matters in the public domain but not to affect third party rights since the land is merely being transferred from a subordinate State instrumentality to the sovereign State itself. Thus, there is no project cost in view of non - gazetting of the decision of the Government under S.54(3). Reference to Official Gazette under S.54(3) must be read as directory and not mandatory and the provision has been specifically complied with.

106. It was further submitted on behalf of the appellant that admittedly development of tourism in Jaipur on the southern and western side of Mansagar Lake has been an avowed object of the Jaipur Master Plans, 1976, 2011 and 2025. Thus, the project is in alignment with the Master Plan. The Jaipur Master Plan is a statutory document under S.21 of the JDA Act, 1982. S.26 mandates that once the Master Plan is in force, JDA must take action for implementing the plan as may be necessary. Thus, it is statutorily incumbent on JDA to implement the Master Plan, inter alia, which enables development of tourism in the given

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area. Undisputedly approximately 43 ac in the 100 ac lease was vested in JDA and transfer to it for the purpose of developing the tourism project in the area designated in The Master Plan referred to above. Therefore, the land allotted by JDA to RTDC was also for implementation of JDA's Master Plan. Therefore, it cannot be disputed that the present project is a tourism project. Thus, there was ample authority with JDA to allot land to RTDC under the JDA Act, 1982, particularly S.54(1) for implementing its Master Plan.

107. Cumulatively, it was submitted that JDA under S.54(1) has the power to allot land vested in it for the purposes of the JDA Act, 1982 subject to the rules by the Government of Rajasthan. It was submitted that obviously for allotment of land to implement the Master Plan of the JDA Act, 1982, R.18 gives the Government of Rajasthan power to exempt the State Department from paying cost of the land when land from JDA is allotted. Exemption by the Government of Rajasthan in favour of RTDC acting on behalf of the Department of Tourism as an agent from paying cost of the land is traceable to power vested under R.18 read with the Government of Rajasthan decision dated 9-2-2004. Hence for all these reasons, non - gazetting under S.54(3) was not a requirement.

108. Contesting the argument raised by the PIL petitioner - respondents that the State Government has changed the rules of the tender so as to favour the petitioner company in awarding the contract is not borne out by the record that has been produced before this Court in the form of various collegiate, transparent meetings that have been presided over by the highest functionaries in the State Government, inter alia, including the Chief Secretary, the Principal Secretary and various head or statutory authorities who participated in these meetings. On a perusal of the pre - qualification evaluation report dated 6-10-2003 which was prepared by Project Development Corporation of Rajasthan (PDCOR), a joint venture between the Rajasthan State Government and IL & FS, it is clear beyond any doubt that the threshold qualification criteria required to be satisfied by the appellant KGK Enterprises (the lead member of KGK Consortium) stood more than adequately made out when KGK Enterprises satisfied the technical requirement and the financial requirements required under the request for proposal. It is pertinent to point out that KGK Enterprises satisfied the substantive provision of the pre - qualification evaluation criteria (namely, the technical and financial capabilities). In other words, the technical and financial bids were yet to be opened and the criteria that was satisfied by KGK Enterprises was only

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threshold preliminary criteria at the pre - qualification evaluation stage. A further perusal of this report makes it apparent that PDCOR has observed that the tender submitted by KGK Consortium through KGK Enterprises, the lead bidder was a partnership firm, therefore, the argument of the respondent that there was concealment with respect to material fact does not stand and is for this reason unsustainable.

109. PDCOR as a part of its evaluation report and other correspondence recommended that apart from the other two bidders who had satisfied the pre - qualification evaluation criteria, even KGK Consortium should be permitted for being considered at the technical evaluation phase as KGK Consortium satisfied the substantive conditions at the pre - qualification evaluation stage. PDCOR in its recommendation further opined that condition of KGK Enterprises at the subsequent stage would promote competition amongst the bidders and, therefore, be in public interest. The intent of RFP according to PDCOR was never to exclude any bona fide legal entity that may consider putting its bid subject to it satisfying the other threshold criteria as already stated hereinbefore.

110. It is pertinent to mention again that the above recommendations were transparent, bona fide and were put for approval before the Government of Rajasthan for considering the recommendations of PDCOR. The Government of Rajasthan after due deliberation permitted KGK Enterprises to be considered for technical evaluation.

111. Another important feature of the tender process was that after the financial bids were opened, only KGK Consortium was found to be the highest bidder by 39%, the matter was considered by the Empowered Committee on Infrastructure Development ("ECID", for short) meeting held on 9-2-2004 headed by the Chief Secretary with other senior Government functionaries attending. In the said ECID meeting, on perusing the entire tender process, it was decided to award the project to the highest bidder being KGK Consortium. Thereafter, these recommendations of ECID were put up for the approval of the then Chief Minister who unreservedly endorsed the decision of ECID dated 9-2-2004.

112. Thereafter, on 30-9-2004, the Government of Rajasthan issued a letter of intent to KGK Enterprises (lead member of KGK Consortium) for award of the project. The final decision in the decision - making process that culminated in the execution of the lease and licence agreement was taken by the Chief Minister on

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27-10-2005 whereby it was approved that the execution of the lease and licence agreements be entered into by the State Government with the highest bidder M/s Jal Mahal Resorts (P) Ltd., a special purpose vehicle company of KGK Consortium.

113. It was, therefore, submitted that on a perusal of this detailed decision - making process undertaken by the Government of Rajasthan during the regime of successive Chief Ministers after which the Government contested the PIL petitioner before the High Court as also before this Court through the Attorney General, there is no doubt that the decision taken to approve the project and execution of lease deed was a bona fide decision for the general and overall betterment of the project meeting the area around Jal Mahal and, therefore, no fault can be found in regard to the decision even if certain procedural relaxations were granted for approving the project. In sum and substance, it was submitted that insofar as the relaxation granted is concerned, the action of the State Government was bona fide approved by the previous and subsequent Government of Rajasthan which was bona fide and cannot be called unfair or illegal in any manner.

114. In support of the submission, the learned counsel for the appellant has cited several authorities of this Court inter alia being B. S. N. Joshi & Sons Ltd. v. Nair Coal Services Ltd., 2006 (11) SCC 548 and the relevant portion at p. 571, paras 66(v) and (vii) states as follows: (SCC p. 572)

"66. (v) when a decision is taken by the appropriate authority upon due consideration of the tender document submitted by all the tenderers on their own merits and if it is ultimately found that successful bidders had in fact substantially complied with the purport and object for which essential conditions were laid down, the same may not ordinarily be interfered with;

(vii) where a decision has been taken purely on public interest, the Court ordinarily should exercise judicial restraint. "

115. Similarly reliance was also placed on Poddar Steel Corpn. v. Ganesh Engg. Works, 1991 (3) SCC 273 by the appellant, wherein this Court held that: (SCC p. 276, para 6)

"6.... As a matter of general proposition it cannot be held that an authority inviting tenders is bound to give effect to every term mentioned in the notice in meticulous detail, it is not entitled to waive even a technical irregularity of little or



no significance. "

Thus, it was held that minor technical irregularity and deviation from non - essential or ancillary / subsidiary requirement can be waived and the Government would be justified in waiving technical compliance with a tender condition.

116. The thrust of the aforesaid case law cited is to reinforce the submission that when there is substantial compliance with the terms of tender, the Government is entitled to waive any non - essential term in the tender for the bona fide reasons and in public interest. In any case, since the Project in terms of RFP had to be executed through an SPV and the appellant being such an SPV, then the vehement insistence by the respondent that the lead member must be a company is not a violation of a substantial condition of the tender. In conclusion, therefore, it had to be held that there were no mala fides in the decision - making process and the finding given by the High Court is perverse and cannot be sustained and deserves to be set aside.

117. On perusal of the background and other materials on record, it could be noticed that the genesis of restoration and conservation of Mansagar Lake goes back to 1984 whereby the efforts of the State from 1984 onwards have been directed towards restoring and developing the largest water body in Jaipur (that was lying disused with sewage, filth, stench and effluent) into an attractive public interest destination with a pleasing environmental ambience for attracting tourists from all over the world.

118. The figures and conclusions in the impugned order itself indicate the enormous difficulty and repetitive failures of the State Government to either implement the restoration itself or to get any private entity to do so over a period of approximately 20 years from 1984 to year 2003. Indeed, the attempts immediately preceding the present tender from year 2000 to 2002 have also admittedly failed. Had the figures found in the impugned order or the conclusion of the impugned order that the project proposal constituted a squandering of State largesse had been correct, the applicants would have been falling over themselves to bid for the project not only in the present tender but also in the preceding unsuccessful attempts. Even in the present case, despite the attendance of as many as 20 major participants (including corporate names like Oberoi, Taj, Ansal, Neemrana to mention a few) who admittedly attended the pre - bid meeting, no one except the SLP appellant - petitioner and three others

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(vii) Almost 12 ac of land would be devoted to a handicrafts village showcasing the cultural heritage of Rajasthan where the commercial return to the bidder would be only in the form of lease rent, and the sales occurring due to footfalls would accrue to the sub-lessee who sells the craft and not to the SLP petitioner.

(viii) The project has a long gestation period not only in terms of restoration and development costs but also construction of infrastructure, and the footfalls would increase only over time after the project has fully established its credentials.

(ix) In a nutshell, therefore, huge investments, sure, certain and unavoidable, were front ended; possible returns, unsure and uncertain, were back ended.

(x) All the foregoing admitted points have been completely ignored in the impugned order, or not noticed or cursorily mentioned and not decided, and in any event not given adequate probative weight.

(xi) Equally ignored has been the very *raison d'etre* of the project actuated by the fundamental object by the State Government to restore heritage site and to create a sustainable and pleasing environmental ambience. The lease rent model, increasing as time goes on had always been the consistent approach of the State since 1999 when restoration was first envisaged. It is inconceivable that this model could be created to assist or benefit the bidder like the SLP petitioner who came into the picture for the first time only in year 2003.

121. The learned Attorney General had submitted that it is an axiomatic legal principle that revenue maximisation cannot and need not be the sole or even the predominant object of a State initiative. Indeed, revenue maximisation as the sole object is frequently antithetical to public interest projects involving long gestation periods, a history of disuse and failure, reluctant bidders, certain and unavoidable front ended investments and highly uncertain back ended gains. As a matter of law, also as matter of business reality and commercial efficacy, it is universally recognised that even direct invitation to potential investors / bidders without any bid or auction at all is a fully valid manner of creating infrastructure where non - existed, especially in nascent areas and new areas projects. In respect of this submission reliance has been placed on (i) Natural Resources Allocation, In re, Special Reference No. 1 of 2012, 2012 (10) SCC 1, SCC at p. 87, para 119, 120 - CLC 1/153-244 @ 206; (ii) Sachidanand Pandey v. State of W. B., 1987 (2) SCC 295, SCC at p. 314, para 19, @ 264 pr. 35, @ 266 pr. 39, @ 266-67 pr. 40-41, 43; (iii) M. P. Oil Extraction v. State of M. P, 1997 (7) SCC 592, SCC at pp. 612-613, para 45 - CLC 1/271-285 @ 284; (iv) Kasturi Lai Lakshmi Reddy v. State of J &K, 1980 (4) SCC 1 SCC at p. 13, para 14 - CLC 1/286-300 @294.

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122. In fact, we have noted that there was not one but repeated attempts at tendering which had failed. While the earlier attempts failed, the present tender open to the whole world, shrunk from 20 parties to 9 parties and then to only 4 parties at the time of submission of bids (whereby the SLP petitioner succeeded on merits). If the project value correctly involved 4 and 5 crore figures mentioned in the impugned order, it is inconceivable and inexplicable as to how and why neither the 20 nor the 9 nor the 3 ultimate bidders apart from the SLP petitioner offered a maximum figure of Rs 2. 52 crores only. The bidding process was open and transparent considering tourism development.

123. We have taken note of the factual submission that the reserve figure of lease rental expected by the State had been fixed at Rs. 1 crore in the RFP (Vol. 3/551 @ CL 3. 2). This was not merely an ad hoc magical figure plucked out from the air but arrived at after repeated transparent evaluation by Expert Committees and proclaimed openly to the whole world. There is not even an allegation of surreptitious or ex parte dealing at the stage of conceiving and designing the tender or stipulating its multiple parameters. This minimum rent had been determined with the objective of providing a rate of return of 20-22% per annum from the project to the private sector developer. Such a rate of return was considered a reasonable return for a long - term capital asset which at the end of the lease would have no terminal value for the developer, as it would require to be transferred back to RTDC who is acting on behalf of R2 [PDCOR - R6 WS in HC(B pr 6)]. Thus, it is evident that sufficient economic diligence was used before issuing RFP and subsequently accepting KGK Consortium's highest financial bid. In conclusion, therefore, it had to be held that there were no mala fides in the decision - making process and the finding given by the High Court, cannot be sustained and hence deserves to be set aside.

124. On a careful analysis of the submissions of the contesting parties in the light of the materials referred to before the High Court as also this Court, we further cannot overlook the historical background and the sequence of events which led to the culmination of the project for which a lease deed was executed on 22-11-2005 and 5 to 6 years thereafter the respondents herein filed three public interest litigations which clearly fail the test of utmost good faith. It needs to be recollected from the sequence of events and the historical background related hereinbefore that the Jal Mahal Tourism Infrastructure Project was conceived and approval was given by the Standing Committee on Infrastructure Development

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(for short "SCID") for the first time in its third meeting held on 21-12-1999. Resolution had been filed in which it was stated that at that point of time Jaipur Municipal Corporation must own the project. Hence bids were initially invited in the year 2000-2001 without identification of the land to be used and without studies with regard to environment impact assessment. The bid process was, therefore, scrapped and JDA was made the sponsoring department for the lakeside development component in the meeting of Board of Infrastructural Development and Investment Promotion (BIDI) held on 23-8-2002 and 3-9-2002. After approval, an expenditure sanction was granted by MoEF, for the Lake restoration component but MoEF had clearly granted approval to the lakeside development component of Mansagar Lake.

125. It is no doubt urged on behalf of the respondent - PIL petitioner and taken note of by the High Court that the National Lake Conservation Plan did not contemplate any commercial venture upon the Lake to be restored under the plan. But it cannot be overlooked that the State Government had full authority to carve out a plan for development of the Lake and the Lake area considering the fact that way back in 1962 the Lake's glory as a pristine water body lasted only until the former rulers had their control over the city and unpleasant history of the Lake began when the new administration of Jaipur diverted walled city sewage in 1962 through two main waste water drains, namely, Brahmपुरi and Nagtalai. It is borne out from the factual history of the Lake that most notorious aquatic weed water hyacinth entered into the Lake in 1975 and the waterfowl population started affecting the resident and migratory species. It is in this background that the Government of Rajasthan submitted project for restoration of Mansagar Lake to the Central Government.

126. Thereafter, Jal Mahal tourism infrastructure was conceived and approved by the Standing Committee on Infrastructure Development in its meeting held on 21-12-1999 and initially Jaipur Municipal Corporation was to own the project. The bids were invited in the year without identification of the land to be used and without studies with regard to the Environment Impact Assessment. Hence, the bid process was scrapped and Jaipur Development Authority was made the sponsoring department for the lakeside development component in the meeting of the Board of Infrastructure Development and Investment Promotion (for short "BIDI") held on 23-8-2002 and 3-9-2002. Hence, Project Development Corporation of Rajasthan (for short "PDCOR") got a detailed project report

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prepared which contemplated the following components:

- (i) Restoration of Mansagar Lake;
- (ii) Restoration and reuse of Jal Mahal monument;
- (iii) Development of tourism / recreational components at the Lake precincts.

127. Thereafter, in the meeting of BIDI held on 9-8-2003, it was decided that nodal agency for the Jal Mahal Tourism Project will be the Tourism Department of the Government of Rajasthan instead of JDA. Thereafter, the Tourism Department assigned the responsibility to Rajasthan Tourism Development Corporation (for short "RTDC") vide order dated 6-9-2003. The last date for submission of deed was 5-9-2003. The petitioner on the other hand and also the Attorney General clarified that the need to issue office memorandum dated 24-5-2011 was felt because OM dated 28-4-2011 in broad terms provided that Category B projects that fell within 10 km of the notified critically polluted areas would be treated as Category A and general condition would be applicable to such projects. MoEF in order to clarify OM dated 28-4-2011 issued OM dated 24-5-2011 that expressly provided that the projects falling under Items 8 (a) and / or 8(b) do not attract general condition.

128. On an analysis of the aforesaid aspects, it is clear that the project that was conceived, deliberated and given effect to emerged from the status of the land adjoining the Lake area which had a history behind it and in view of the garbage, filth stench on the area, decision had been taken to develop the two project sites.

129. We have further taken note of the arguments advanced by the learned Attorney General who had submitted that the High Court has not taken into account the steps that were taken in the project since 1998 onwards. The learned Attorney General representing the State had relied on a comprehensive list of dates beginning from 1984 onwards discussed hereinbefore to show the step - by - step decision taken before the project was awarded to KGK Consortium including the Jaipur Master Plan of 2011.

130. It may further be noted that the argument advanced by the counsel for the respondent - PIL petitioner that 100 ac land leased to the petitioner was part of the lake bed, does not get supported from the revenue entries placed on record or any other material which makes it clear and establishes that only 13 bighas 17 biswas is classified as "gair mumkin talab" (lake bed) being Khasra No. 67/317 which would be approximately 8. 65 ac. However, the balance land that is 100 ac

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less 8. 65 ac is in fact recorded as "banjar" in the revenue record and not lake bed. We find sufficient substance in the plea that this Court in the past have placed reliance on revenue entries to determine the nature of land from which it follows that based on the revenue entries, no other khasra of land forming part of 100 ac of land leased to the petitioner is lake bed. It may further be noted that as per the appellant - petitioner 14. 15 ac of land is "banjar" and not lake bed whereas according to the PIL petitioner it is a lake bed / wetland which is contrary to the revenue record.

131. From the version and counter - version of the counsel for the parties, it is obvious that although the PIL petitioners had challenged the 100 ac land as lake bed so as to assail that the same could not have been a part of the lease area, the fact remains that the entire emphasis is only in regard to the land comprising 14. 15 ac equivalent to 22 bighas and 10 biswas and another chunk comprising 8. 65 ac equivalent to 13 bighas and 17 biswas. The counsel for the appellant lessee submitted that if the revenue record for 13 bighas 17 biswas equivalent to 8. 65 ac noted as "gair mumkin talab" lake bed bearing Khasra No. 67/317 is relied upon by the Court, then further revenue entries classifying 14. 15 ac of land recorded as barren land / banjar also should be accepted, adopting the view taken in Okhla Bird Sanctuary case, 2010 KHC 4956 : 2011 (1) SCC 744 that revenue entries are fit to be relied upon in order to determine the nature and character of the land.

132. However, we are of the view that in order to avoid this controversy in regard to these two chunks of lands as to whether the same form parts of the lake bed or not, it would be just and appropriate to slash this part of the land from the leasehold area as per Clause 18. 4 of the lease deed itself implying that these two areas shall not form part of the leasehold area so as to be given out on lease to the appellant - petitioner. In view of this 13 bighas and 17 biswas of land equivalent to 8. 65 ac which has been classified as "gair mumkin talab" bearing Khasra No. 67/317 shall not be treated as a part of the leasehold area and the same shall be within the control and domain of the Government of Rajasthan which will be free to reconvert this area into the Lake area.

133. Insofar as 14. 15 ac of land recorded as barren land / banjar is concerned, we are pleased to hold that this area shall be treated as a construction free zone and neither party i. e. the State of Rajasthan nor the lessee, appellant herein shall



be permitted to raise any construction thereon. We are informed that this area is being used as a public promenade (walkway) for the use of the public which shall be allowed to continue.

134. Insofar as the balance area of land pertaining to the lease deed is concerned, we are pleased to hold that the respondents / PIL petitioners have not been able to lead any iota of evidence or material to prove that this area was at all or at any point of time lake bed or wetland. This fact is further proved from the historical background of this litigation as it is the case of the appellant lessee, the PIL petitioner which gets reinforced from the record and the detailed project report of PDCOR indicating that the efforts were being made to develop this land way back from 1984 and in the year 1999 as already noted hereinbefore reflected from the minutes of the third meeting held on 21-12-1999, the Standing Committee on Infrastructure Development (SCID) agreed that Jaipur Municipal Corporation must own the project to develop this land and the bids were invited in the year 2000-2001 with regard to the development of the land. However, the same was scrapped and JDA was made the sponsoring department for the lakeside development component in the meeting of the board of infrastructure development and investment promotion held on 23-8-2002 and 3-9-2002.

135. From the aforesaid history, it gets factually established that this land in any view was available for development at least way back from 21-12-1999 and no question was ever raised that this was not available for infrastructural development. In fact, we have further noted that in the three Master Plans of Jaipur, 200 ac of land were shown for infrastructural development for tourism purpose and out of that 100 ac was made a part of the lease deed after extensive research conducted by Project Development Corporation of Rajasthan which got detailed project report prepared way back in 2001 when the appellant - petitioner was not even in the picture so as to develop the land. Even if the Ministry of Environment and Forests of the Central Government did not accept the position that it had given clearance for this project, the fact remains that the land was lying within the domain of the State Government due to which it had full administrative discretion to take a decision in regard to development of the land and it is not that it was done in a huff or hurry without deliberation or study. In fact Project Development Corporation (PDCOR) got the detailed project report prepared way back in 2001 and thereafter in 2003, steps for inviting tender were taken by the PIL petitioners. If at all the bona fides of the respondent - PIL petitioners were

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clear, they ought to have assailed the invitation of tender which finally got executed only in the year 2005.

136. Thus, from the year 2001 when detailed project report was prepared, decision to award tender was taken, "Expression of Interest" invitation of tender and bid was invited and accepted, the PIL petitioners never ever challenged these activities on the part of the State which was approved, accepted and continued by the successive Governments which were ruling in the State of Rajasthan. Thus, the submission of the counsel for the appellant that the PIL lacks bona fides and good faith cannot be brushed aside totally although the same has neither been a reason with the High Court nor with us to reject the petition as we have ignored the delay and also lack of bona fides on the part of the PIL petitioner - respondents herein and have examined the matter on merit taking note of every meticulous argument and counter - argument advanced by the contesting parties.

137. From this, it is clear that although the Courts are expected very often to enter into the technical and administrative aspects of the matter, it has its own limitations and in consonance with the theory and principle of separation of powers, reliance at least to some extent to the decisions of the State authorities, specially if it is based on the opinion of the experts reflected from the project report prepared by the technocrats, accepted by the entire hierarchy of the State administration, acknowledged, accepted and approved by one Government after the other, will have to be given due credence and weightage. In spite of this if the Court chooses to overrule the correctness of such administrative decision and merits of the view of the entire body including the administrative, technical and financial experts by taking note of hair splitting submissions at the instance of a PIL petitioner without any evidence in support thereof, the PIL petitioners shall have to be put to strict proof and cannot be allowed to function as an extraordinary and extra - judicial ombudsmen questioning the entire exercise undertaken by an extensive body which include administrators, technocrats and financial experts. In our considered view, this might lead to a friction if not collision among the three organs of the State and would affect the principle of governance ingrained in the theory of separation of powers. In fact, this Court in *M. R Oil Extraction v. State of M. P.*, 1997 (7) SCC 592, SCC at p. 611 has unequivocally observed that: (SCC para 41)

"41. The power of judicial review of the executive and legislative action must be

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kept within the bounds of constitutional scheme so that there may not be any occasion to entertain misgivings about the role of judiciary in out - stepping its limit by unwarranted judicial activism being very often talked of in these days. The democratic set - up to which the polity is so deeply committed cannot function properly unless each of the three organs appreciate the need for mutual respect and supremacy in their respective fields. "

138. However, we hasten to add and do not wish to be misunderstood so as to infer that howsoever gross or abusive may be an administrative action or a decision which is writ large on a particular activity at the instance of the State or any other authority connected with it, the Court should remain a passive, inactive and a silent spectator. What is sought to be emphasised is that there has to be a boundary line or the proverbial "laxman rekha" while examining the correctness of an administrative decision taken by the State or a central authority after due deliberation and diligence which do not reflect arbitrariness or illegality in its decision and execution. If such equilibrium in the matter of governance gets disturbed, development is bound to be slowed down and disturbed specially in an age of economic liberalisation wherein global players are also involved as per policy decision.

139. In a matter of the instant nature, where the policy decision was taken way back from 1976 followed by master plans to develop a particular chunk of land by adopting the mode of private - public partnership method and a global tender was floated, obviously the private players were bound to participate specially in an age when private partnership is not an anathema. In that view of the matter when a particular policy decision was taken to develop a particular project supported by extensive research and study by the experts in the field who prepared the project report relying upon the three successive master plans of the city of Jaipur and the global tender was floated for development of land for tourism adjoining the lake area, entertaining PIL petition on the ground that the area in question is a wetland without substantiating the same in any manner i.e. neither from the revenue record nor any other material, the perception of PIL petitioners without factual basis cannot be allowed to prevail over the decision of the entire group of experts which was finally accepted by the State Government through the project development report of a State agency which got the detailed project report (DPR) prepared and nothing could be brought to the notice of the Court that DPR was not fit to be relied upon or that it was prepared in a clandestine manner. In our

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considered view unless the detailed project report, Master Plan of Jaipur, revenue record indicating the nature of land that the Project was fraught with risk of environmental degradation which could establish with facts and figures that the decision is not in public interest, interference by the Court adopting an overall view smelling foul play at every level of administration is bound to make the governance an impossibility. Therefore, the Courts although would be justified in questioning a particular decision if illegality or arbitrariness is writ large on a particular venture, excessive probe or restraint on the activity of a State is bound to derail execution of an administrative decision even though the same might be in pursuance of a policy decision supported by other cogent materials like survey and search by a reliable expert agency of a State after which the State project or private and public partnership project is sought to be given effect to.

140. At this juncture, we take note of two overriding considerations which combined, narrow the scope of review. The first is that of deference to the views of administrative experts and the other we take assistance from the words of Chief Justice Neely who expressed as follows:

"I have very few illusions about my own limitations as a judge and from those limitations I generalise to the inherent limitations of all Appellate Courts reviewing rare cases. " The learned Chief Justice further observed as follows:

"I am not an accountant, electrical engineer, financier, banker, stock broker, or systems management analyst. It is the height of folly to expect judges intelligently to review a 5000 page record addressing the intricacies of public utility operation. It is not the function of a judge to act as a super board, or with the zeal of a pedantic schoolmaster substituting its judgment for that of the administrator. The result is a theory of review that limits the extent to which the discretion of the expert may be scrutinised by the non - expert judge. It was suggested that the alternative for the Court is to desist itself from interference on technical matters, where all the advantages of expertise lie with the agencies. If the Court were to review fully the decision of an expert body such as State Board of Medical Examiners, 'it would find itself wandering amid the maze of therapeutics or bogging at the mysteries of the pharmacopoeia' . "

141. Bearing the aforesaid aspects in mind, we are prone to infer that the disputed area of the lease deed borne out from the revenue record is clearly confined to 14. 15 ac plus 8. 65 ac and the balance area of the lease deed could not have been interfered with so as to set aside the entire project.

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142. However, we have noted that the period of the lease deed had been finally fixed as 99 years which in our view could not have been done by the State Government as that clearly converts the lease deed into a perpetual lease. In fact we have noted that when the tender was floated for granting the lease deed, the maximum period for the lease deed as per the rule could not have been more than 30 years yet the tender was floated for a period of 60 years which was later extended to 99 years. This in our view could not have been done by the State Government as one can infer even at a glance that the same being contrary to the rules, could not have granted it for a period of 99 years.

143. We, therefore, set aside the period of lease which has been granted in favour of the appellant for a period of 99 years and the same shall stand reduced to a period of 30 years only which could be the maximum period of the lease for the land under the rules which should start ordinarily from the date of its execution so as to expire on or before the period of 30 years. But we are conscious of the fact that much time has lapsed after execution of the lease deed in 2005 due to which only Phase I of the project could start after which it got stuck and the project is in a state of limbo due to delay on account of the litigation started at the behest of the PIL petitioner - respondents who questioned the validity of the lease deed executed and finally succeeded in getting it set aside. We are, therefore, of the view that the lease deed which could not be made effective in view of the intervening litigation due to which the project got delayed, it is legally just and appropriate to direct that the period of 30 years of the lease shall now be counted from the date of this judgment and order.

144. We are further of the view that on or after expiry of 30 years to be counted from the date of this judgment and order, if for any reason whatsoever the lease deed is not renewed in favour of the appellant lessee or the appellant chooses not to seek its renewal, the appellant shall be adequately compensated for the property and structure which stands developed at the instance of the appellant during the period when the lease subsisted in its favour. Subsequently, however, as to what would be the adequate period of lease to be granted in favour of the existing or a new lessee obviously would be determined by the State Government at the relevant time but insofar as the instant lease deed is concerned, the existing period of 99 years shall stand decreased to 30 years to be counted from the date of judgment and order of this Court.

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145. Thus, the lease deed although was executed for a period of 99 years shall pursuant to this decision, run for a period of 30 years which shall commence from the date of this judgment and order and may be extended by the State Government for such other period as may be considered legally viable based on the rules and regulations at the relevant period. We further add in the interest of justice, that after expiry of 30 years of lease period and in case the lease deed is not renewed in favour of the appellant, the State Government shall compensate the appellants at the market value of the project including compensation for the loss of business and profit. It is clarified that in the event of any dispute arising with respect to quantum of compensation, it may be resolved by availing the remedy of arbitration mechanism provided in the lease deed.

146. We are informed that the first phase of the Project has been completed since February 2011. It is, therefore, directed that the completion certificate and the lease agreement for the first phase be issued expeditiously but not later than a period of 30 days from the date of receipt of this order. Accordingly, the State Government shall issue the restoration completion certificate for Phase I to enable the Project along with the Jal Mahal monument as per the lease deed, to open for entry and visit of the members of the public. Upon issuance of the Phase I certificate, the project developer / lessee / appellant shall be allowed to undertake the construction as per the approved plan in terms of the lease deed.

147. We further hold that the area of 8. 65 ac equivalent to 13 bighas and 17 biswas shall not form part of the leasehold area as already stated hereinabove and the same shall stand retransferred to the Government of Rajasthan which shall be recarved and added to the Lake area and the same shall be maintained by the competent authorities of the State. However, the area of 14. 15 ac equivalent to 22 bighas and 17 biswas although shall be notionally treated as part of the lease deed, the said area shall be treated as a construction free zone which will be allowed to be used as a walkway / the public promenade free of any charge at the instance of the lessor and the lessee. Remaining portion of the land forming part of the lease deed shall remain intact to be used by the appellant as per the terms and conditions of the lease deed already executed. However, by way of abundant caution, we clarify that Mansagar Lake Restoration Project, if undertaken by the State or the Ministry of Environment, the same shall not get affected by virtue of the lease deed in any manner.

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148. It is further held that since the land which is a part of the leasehold area barring 2 chunks viz. 8. 65 ac equivalent to 13 bighas 17 biswas of land and 14. 15 ac of land approximately 22 bighas 10 biswas, in all 35 bighas and 27 biswas equivalent to 22. 80 ac, the Wetland Rules of 2010 shall not apply to the project since environment clearance had already been issued under PIA, 2006 prior to commencement of the project. In any view the leasehold area barring the land equivalent to 35 bighas and 27 biswas having not been held as wetland or lake bed as per the revenue record as also the fact that it was available for development way back from 1982 which gets established from the various master plans of Jaipur and the historical background referred to hereinbefore, no dispute relating to application of the Wetland Rules, 2010 shall be allowed to be raised hereinafter with retrospective effect in regard to the leasehold area of the land which has been granted for development of the project and could not be proved to be wetland barring 22. 80 ac equivalent to 35 bighas and 17 biswas. It is further clear by now that the project comprising the leasehold land is not in conflict with the development of Lake area or Jal Mahal monument so as to raise issues or concern regarding the Lake area or environment degradation as restoration and maintenance of Jal Mahal cannot possibly disturb the monument or lead to environmental degradation. In any view, the dispute being confined to the leasehold area for development of the project which we have now resolved, we direct that the appellant lessee shall be entitled to restart the project forthwith subject to what we have recorded hereinbefore.

149. The judgment and order of the High Court thus stands quashed and set aside to the extent by which the lease deed has been cancelled except an area of 13 bighas 17 biswas equivalent to 8. 65 ac and the balance disputed area claimed to be lake bed comprising 14. 15 ac shall be notionally treated as part of the lease deed but the same shall remain a construction free zone where neither the State Government of Rajasthan nor the appellant lessee Jal Mahal Resorts (P) Ltd. shall have the right to raise any construction on this area as the same shall remain exclusively for the use of public promenade / walkway free of charge.

150. In view of the analysis made hereinbefore, these appeals stand partly allowed to the extent indicated hereinabove but in the circumstance, the parties are directed to bear their own costs.

20/10/2021

This is the true copy of the document referred to and marked as
AnnexureR.4 (D)



Advocate

Reply Affidavit in Appeal No.54 of 2021 -Filed in NGT by Thomas Lawyrence

P B Sahasranaman <sahasram@gmail.com>
to tomsti62, seaceiaakerala, vidyalakshmi, RITWICK, ritwick, legal, bcc: sai

3:57 PM (0 minutes ago)

Sir

Ref: Appeal No.54 of 2021 - Filed by Thomas Lawrence -Southern Zone Bench- National Green Tribunal
I am sending herewith the copy of the reply statement filed on behalf of the respondents 4 to 6 in the above case.

regards
P. B. Sahasranaman
Advocate, Kerala High Court

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